OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 15 October 2014

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT
THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, G.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, S.B.S., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D., R.N.

THE HONOURABLE JEFFREY LAM KIN-FUNG, G.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, S.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CYD HO SAU-LAN, J.P.

THE HONOURABLE STARRY LEE WAI-KING, J.P.

DR THE HONOURABLE LAM TAI-FAI, S.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG KWOK-KIN, S.B.S.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, S.B.S., J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, S.B.S., J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU, J.P.

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN, B.B.S.

PUBLIC OFFICERS ATTENDING:

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S., J.P.
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE TSANG TAK-SING, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

PROF THE HONOURABLE K C CHAN, G.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE GREGORY SO KAM-LEUNG, G.B.S., J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE RAYMOND TAM CHI-YUEN, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE WONG KAM-SING, J.P.
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.
SECRETARY FOR DEVELOPMENT

MR JOHN LEE KA-CHIU, P.D.S.M., J.P.
UNDER SECRETARY FOR SECURITY

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MR ANDY LAU KWOK-CHEONG, ASSISTANT SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen and Mr Albert CHAN, since the two umbrellas of yours are blocking my view, I am unable to see the Members sitting in the row behind you. Please put down your umbrellas.

(Mr Albert CHAN spoke loudly)

PRESIDENT (in Cantonese): Mr Albert CHAN, please do not obstruct the commencement of the meeting.

PRESENTATION OF PETITIONS

PRESIDENT (in Cantonese): Presentation of petitions. Two petitions to be presented to this Council in accordance with Rule 20 of the Rules of Procedure.

First petition: Mr TAM Yiu-chung will present a petition co-signed by Mr TAM Yiu-chung and Mr IP Kwok-him to this Council.

MR TAM YIU-CHUNG (in Cantonese): President, thank you for permitting me to present this petition. The petition is proposed and co-signed by me and Mr IP Kwok-him, with the support of 12 colleagues including us. I will briefly state the content of the petition.

Since 28 September this year, a massive and unlawful incident of road occupation has been going on at various districts in Hong Kong, paralysing the traffic in various trunk roads, seriously affecting people's daily life and livelihood, and causing severe damage to the overall interest of Hong Kong. On the other hand, the incident has also caused clashes among members of the public, subjected the Police to groundless accusations in their impartial enforcement of the law, affected young people's studies and prospects, and resulted in the serious splitting of society. Since the incident has produced extensive impact on Hong Kong, I beg Members to support this petition on conducting a comprehensive investigation into the incident which covers its organization and planning, financial sources, the resultant problems of public order and safety, the impact on the different aspects of Hong Kong, the

Government's handling practices and all other related matters, and which makes recommendations to the Government and various social sectors on the basis of the investigation findings.

(See Annex I for the content of the petition)

(Mr IP Kwok-him rose in his place immediately)

MR IP KWOK-HIM (in Cantonese): President, in accordance with Rule 20(6) of the Rules of Procedure, I request that the petition be referred to a select committee.

PRESIDENT (in Cantonese): I now call upon Members who support this request to rise in their places.

(There was a hubbub among Members)

PRESIDENT (in Cantonese): Will Members please keep quiet. If any Member violates the Rules of Procedure, I will ask him to leave the Chamber in accordance with the Rules of Procedure.

PRESIDENT (in Cantonese): Members please remain standing to allow the Clerk to do a headcount.

(After the headcount, the Clerk indicated to the President completion of the recording)

PRESIDENT (in Cantonese): Will standing Members please be seated now.

(Members sat down)

PRESIDENT (in Cantonese): According to the headcount record of the Clerk, Members who support this request are Mr MA Fung-kwok, Mr NG Leung-sing, Mr Martin LIAO, Dr LAM Tai-fai, Mr Michael TIEN, Mrs Regina IP, Mr CHAN Kin-por, Mr Tony TSE, Mr Frankie YICK, Mr YIU Si-wing, Dr Priscilla LEUNG, Mr CHUNG Kwok-pan, Mr James TIEN, Mr Abraham SHEK, Mr WONG Kwok-hing, Miss Alice MAK, Mr KWOK Wai-keung, Mr POON Siu-ping, Miss CHAN Yuen-han, Mr WONG Kwok-kin, Mr TANG Ka-piu, Dr Elizabeth QUAT, Mr Christopher CHUNG, Mr CHAN Han-pan, Mr CHAN Kam-lam, Mr CHAN Hak-kan, Mr LEUNG Che-cheung, Mr WONG Ting-kwong, Mr Steven HO, Ms Starry LEE, Mr TAM Yiu-chung, Mr IP Kwok-him, Dr CHIANG Lai-wan, Mr Jeffrey LAM, Ir Dr LO Wai-kwok, Mr Andrew LEUNG and Mr Christopher CHEUNG. There are 37 Members in total.

In the list I read out just now, do I miss any names of Members who just stood up?

If not, we have a total of 37 Members supporting this request. In accordance with Rule 20(6) of the Rules of Procedure, the petition is referred to a select committee.

PRESIDENT (in Cantonese): Second Petition: Mr SIN Chung-kai will present a petition co-signed by Mr SIN Chung-kai and Dr KWOK Ka-ki to this Council.

MR SIN CHUNG-KAI (in Cantonese): President, thank you for permitting me to present this petition jointly raised by myself, SIN Chung-kai, and Dr KWOK Ka-ki. I am going to elaborate briefly the content of the petition.

On 28 September, demonstrators expressed their call for genuine universal suffrage by means of peaceful demonstrations. The Police, without clearly displaying the warning banner, threw the first tear bomb and the ensuing 86 tear gas canisters in a bid to scatter the demonstrators. The news footage showing the use of batons by police officers to expel demonstrators has prompted the public to doubt about the abuse of violence by our police authority.

On 3 October, clashes erupted in the occupied areas in Mong Kok. The enforcement practices adopted by the Police to handle dissident groups were obviously inconsistent with those adopted on 28 September. The inconsistency in practices aroused suspicion that the Police had connived at the activities of triad groups. It was reported that the Liaison Office of the Central People's Government in the Hong Kong SAR had interfered into the confrontations in Mong Kok with the intention to intimidate the peaceful movement.

Given the Police's serious dereliction of duty and preferential treatment this time while handling the demonstrations and rallies, I urge Members to support this petition. It calls for a thorough investigation into the matter to find out if any act of conniving at the activities of triad groups was involved and any extrajudicial punishment had been imposed. Besides, the level of transparency will be increased by telling the public what kinds of equipment are used by the Police when handling rallies, protests and demonstrations of various nature and the justification for using them. Thank you.

(See Annex II for the content of the petition)

(Dr KWOK Ka-ki rose in his place immediately)

DR KWOK KA-KI (in Cantonese): President, in accordance with Rule 20(6) of the Rules of Procedure, I request that the petition be referred to a select committee.

PRESIDENT (in Cantonese): I now call upon Members who support this request to rise in their places.

(Members supporting the request rose)

PRESIDENT (in Cantonese): Will Members please remain standing to allow the Clerk to do a headcount.

(After the headcount, the Clerk indicated to the President completion of the recording)

PRESIDENT (in Cantonese): Will standing Members please be seated now.

(Members sat down)

PRESIDENT (in Cantonese): According to the headcount record of the Clerk, Members who support this request are Mr WU Chi-wai, Mr James TO, Mr Albert HO, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr LEUNG Yiu-chung, Mr IP Kin-yuen, Dr Helena WONG, Ms Emily LAU, Mr LEE Cheuk-yan, Dr Fernando CHEUNG, Mr Kenneth LEUNG, Mr Charles Peter MOK, Mr SIN Chung-kai, Mr Ronny TONG, Mr Dennis KWOK, Dr KWOK Ka-ki, Ms Claudia MO, Dr Kenneth CHAN, Mr Alan LEONG, Mr Gary FAN, Mr CHAN Chi-chuen, Mr Albert CHAN, Mr Frederick FUNG and Prof Joseph LEE.

In the list I read out just now, do I miss any names of Members who just stood up?

If not, we have a total of 25 Members supporting this request. In accordance with Rule 20(6) of the Rules of Procedure, the petition is referred to a select committee.

TABLING OF PAPERS

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	*L.N. No.*
Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2014	116/2014
Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2014	117/2014
Prevention and Control of Disease (Amendment) (No. 2) Regulation 2014...	118/2014

Other Papers

No. 1	─	Competition Commission Annual Report 2013/2014
No. 2	─	Urban Renewal Authority Annual Report 2013-2014
No. 3	─	Protection of Wages on Insolvency Fund Board Annual Report 2013-14
No. 4	─	Report of changes made to the approved Estimates of Expenditure during the first quarter of 2014-15 Public Finance Ordinance : Section 8
No. 5	─	West Kowloon Cultural District Authority Annual Report 2013/14

QUESTIONS UNDER RULE 24(4) OF THE RULES OF PROCEDURE

PRESIDENT (in Cantonese): Questions. I have permitted Mr Frederick FUNG, Ms Cyd HO, Dr Helena WONG, Dr KWOK Ka-ki and Mr TAM Yiu-chung to each ask an urgent question under Rule 24(4) of the Rules of Procedure.

As the five urgent questions are related to the handling of public assembly and maintenance of public order by the Government and the Police, to facilitate Members' follow-up, I will first call upon the five Members to ask their urgent questions and the public officer to reply to the five questions respectively. Then, I will invite these five Members and other Members to ask supplementary questions separately. I will appropriately adjust the time for Members to ask supplementary questions.

Urgent Question 1.

(Mr WONG Kwok-hing stood up)

MR WONG KWOK-HING (in Cantonese): President.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, what is your point?

MR WONG KWOK-HING (in Cantonese): President, I would like to ask you to deal with a point of order.

PRESIDENT (in Cantonese): Please raise the point of order.

MR WONG KWOK-HING (in Cantonese): This point of order is raised with reference to "Personal Pecuniary Interest to be Disclosed" under Rule 83A of the Rules of Procedure. I notice that among those who are going to raise urgent questions, four Members and their respective parties have accepted pecuniary interests, as revealed by the press. One of them is Mr LEE Cheuk-yan from the Hong Kong Confederation of Trade Unions. He has taken $13 million in relation to Occupy Central which is the subject matter of the urgent questions that they are going to raise today. And the book, *Pan Democrats Takes Money: A True Account,* alleges that Members and parties from the pan democratic camp have accepted money for organizing the event. Therefore, I hope the President would deal with this point of order and ask them to disclose the nature of that interest when asking urgent questions.

PRESIDENT (in Cantonese): Members are familiar with the stipulations in the Rules of Procedure which provide for the declaration of interests and I am not going to remind them every time we meet. Members should make declarations when they see fit. In the event that Members have failed to do so appropriately, the Rules of Procedure have also clearly laid down rules to govern such cases.

MR LEE CHEUK-YAN (in Cantonese): A point of order. Mr WONG Kwok-hing is now offending a number of Members, including myself. He smeared my name, saying that I have accepted $13 million for supporting Occupy Central. This is a complete fabrication, a pure smear and simply an offence.

According to the Rules of Procedure, "[a] Member shall not impute improper motives to another Member". What is more, his allegation is completely groundless, nothing but a fabricated accusation. I would like to ask the President to make a ruling on this.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing has just now quoted certain media reports when raising a point of order and this is out of order. Mr LEE, what you have to do now is to point out which rule under the Rules of Procedure is relevant to the issue you would like me to deal with. Mr WONG Kwok-hing has only quoted certain reports from the media just now and, unlike Mr LEE's assertion, I believe the act is not exactly a breach of the Rules of Procedure. We are all familiar with the Rules of Procedure which require us to make declarations when necessary. We should not accuse other Members over their behaviours under the pretext of raising a point of order as I have to let the Member under accusation to respond once an accusation is levied. But the time now is not meant to be a debate and I would like to ask all Members to observe the Rules of Procedure and not to take up the time of this Council.

MR ALBERT CHAN (in Cantonese): President, I would like you to clarify if making an inaccurate accusation constitutes an offence. This ruling is very important. I hope that the President can clearly explain if the inaccurate accusation made by Mr WONG Kwok-hing a moment ago is, to the Members, … President, he was quoting from sources, but if the content he cited was offensive, then the act of quoting is also offensive.

PRESIDENT (in Cantonese): Mr CHAN, I have already said that apart from an unnecessary quotation from the press, I have not heard anything in breach of the Rules of Procedure in the speech made by the relevant Member just now.

MR ALBERT CHAN (in Cantonese): Please listen to the recording. He has clearly accused Mr LEE Cheuk-yan of accepting money, more than $10 million. This is an inaccurate accusation and it constitutes an offence.

PRESIDENT (in Cantonese): Mr CHAN, you have expressed your view and I have made my ruling. Mr Frederick FUNG, please raise your first urgent question.

MR LEE CHEUK-YAN (in Cantonese): President, in making your ruling just now, you said that if a Member raised an accusation, you had to provide time for the accused Member to respond. So, can I now have the opportunity to speak and explain why all the accusations levied by him were factitious, and how they were fabrications and smears that were downright shameful?

PRESIDENT (in Cantonese): As I have said, this is not a debate.

MR LEE CHEUK-YAN (in Cantonese): Certainly. And I do not really want to debate about the accusations that he made. But it was he who wilfully made inaccurate accusations against other Members, he who smeared other Members' good names. President, you might perhaps ask him to retract his speech and apologize.

PRESIDENT (in Cantonese): I have already pointed out that Mr WONG Kwok-hing's citation of media reports while raising a point of order is not in compliance with the Rules of Procedure. Mr LEE, please sit down.

MR LEE CHEUK-YAN (in Cantonese): He abused the arrangement for raising a point of order and made accusations irresponsibly. But I have not been given the opportunity to respond. Isn't this unfair to me? President, I would like to ask you if this is unfair to me. If this is acceptable, then I can cite the media every time I speak and make accusations against other Members who will be unable to make any reply in return. How can this be acceptable, President?

PRESIDENT (in Cantonese): Mr LEE, please sit down. Members are supposed to have a basic ability to decide between right and wrong.

(Members made comments in their seats)

PRESIDENT (in Cantonese): What Mr WONG Kwok-hing has cited just now are reports from open sources, which are unlikely to gain new meanings with the citation. And Mr LEE Cheuk-yan certainly enjoys a good number of chances to express his personal opinions, both in the past and in the future.

DR KWOK KA-KI (in Cantonese): President, a point of order. I would like to cite many passers-by I met today. They said, "Everything Mr WONG Kwok-hing said is nonsensical." This is a matter which needs to be dealt with. I was only citing from what the passers-by had told me.

PRESIDENT (in Cantonese): Dr KWOK, this is not a point of order. Please sit down and read the Rules of Procedure. Tell me which rule under the Rules of Procedure is relevant to the matter you want me to deal with before raising a point of order.

(Dr KWOK Ka-ki stood up again)

DR KWOK KA-KI (in Cantonese): President …

PRESIDENT (in Cantonese): Members should not abuse the arrangement for raising a point of order. Please sit down immediately.

(Members made comments in their seats)

DR HELENA WONG (in Cantonese): President, a point of order. Mr WONG Kwok-hing said just now that …

PRESIDENT (in Cantonese): Dr WONG, please sit down first.

DR HELENA WONG (in Cantonese): Apart from Mr LEE Cheuk-yan, there are four Members …

PRESIDENT (in Cantonese): Dr WONG, please sit down first.

(Ms Cyd HO stood up)

PRESIDENT (in Cantonese): Ms Cyd HO, what is your point?

MS CYD HO (in Cantonese): President, I would like to seek your clarification. According to Rule 41(5) of the Rules of Procedure, "[a] Member shall not impute improper motives to another Member". I would like to ask you to make a ruling. In the speech delivered a moment ago by Mr WONG Kwok-hing, he asserted that Mr LEE Cheuk-yan accepted money before taking part in Occupy Central. Did he mean to impute improper — or proper — motives on Mr LEE, President?

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, were you imputing improper motives to another Member when you spoke just now?

MR WONG KWOK-HING (in Cantonese): President, I did make it clear just now that I raised the point of order in accordance with Rule 83A on "Personal Pecuniary Interest to be Disclosed" which is very lucidly written. There are newspapers covering the news in length and the public are concerned about the truth. I pointed out that among those who were going to raise urgent questions, four Members and their political parties were accused of accepting monetary rewards allegedly. Hence, it is necessary for them to declare to the Hong Kong society and to this Council if pecuniary interests are involved when they raise urgent questions. They have to admit it if there are and deny it if there are not. It is just as simple as this, President.

PRESIDENT (in Cantonese): Mr WONG, the point of order that we have to deal with now is: Were you accusing the motives of other Members?

MR WONG KWOK-HING (in Cantonese): President, I did not use the word "accuse". I stated clearly that according to 83A on "Personal Pecuniary Interest to be Disclosed", they have to make a declaration of interests.

(A Member shouted in his seat)

MR WONG KWOK-HING (in Cantonese): President, a Member raised a hubbub in his seat. Please deal with it.

PRESIDENT (in Cantonese): Mr WONG, please sit down. No wonder a member of the public told me that Members' performances in the Legislative Council Chamber were worse than those of some undisciplined primary school children in their classrooms. Members are advised to uphold the dignity of this Council.

(Mr Albert CHAN was shouting while seated)

PRESIDENT (in Cantonese): Mr Albert CHAN, if you shout in your seat again without my permission, your conduct is considered grossly disorderly and I will order you to withdraw immediately from the Chamber. Members should stop dwelling on this issue. It is not easy to convene this meeting as the Secretariat has done a lot of preparatory work beforehand, and now 20 minutes have already passed. Please let the five Members raise their urgent questions.

PRESIDENT (in Cantonese): Urgent Question 1.

Immediate Measures to Guard Against Use of Inappropriate Weapons by Police on Protesters

1. **MR FREDERICK FUNG** (in Cantonese): *President, on the 28th of last month, the Police fired 87 canisters of tear gas at the protesters staying at Tim Mei Avenue and Connaught Road, Central/Harcourt Road, and so on. The Police stressed after the incident that the firing of tear gas was consistent with international standards, and that they had no other options but to fire tear gas at*

the protesters who on that day violently charged at the police cordon lines and ignored their advice and warnings. However, according to eyewitnesses' reports and television news footages, the Police had tear-gassed protesters repeatedly at various locations without giving any prior warning under the circumstances where they were not being charged at. For instance, when the first round of tear gas was fired, the Police aimed the tear gas at the students standing behind mills barriers outside the Central Government Offices (CGO) at Tim Mei Avenue, but it was learnt that those students had all along not done anything to charge at the police cordon lines, and that the Police had not displayed any banner warning that tear gas would be fired before doing so. As members of the public are gravely concerned whether the Police's firing of tear gas met the relevant criteria and are worried that the Police would fire tear gas again in the near future to disperse the protesters, will the Government inform this Council:

(1) of the existing criteria adopted by the Police for firing tear gas, including the circumstances under which tear gas may be fired, whether prior warnings must be given to protesters and whether it may be fired under the circumstances where the Police are not being charged at or treated violently; the circumstances under which the Police may resort to more powerful weapons such as rubber bullets, and so on; as the Police has indicated that pepper spray and tear gas are of a similar level of force, whether police officers are also allowed to fire tear gas under the circumstances where the use of pepper spray is permitted;

(2) as the protests are still going on at present, whether the avoidance of conflicts and dangerous situations is the prime consideration of the Police when maintaining public order, or whether there are other considerations, such as firing tear gas or even using more powerful weapons against peaceful protesters merely for enforcing the clearance instructions of senior government officials; and

(3) given the allegation that, on the 28th of last month, police officers threw tear gas canisters at the students gathering peacefully at Tim Mei Avenue without giving any prior warning under the circumstances where they were not being charged at, whether the authorities will immediately conduct a thorough investigation into whether there was any misuse or indiscriminate use of tear gas so as

to prevent recurrence of similar situation; if they will conduct such an investigation, whether they will temporarily suspend the use of tear gas until the completion of the investigation; if there will not be such temporary suspension, of the reasons for that; whether the authorities will look into if the officials concerned need to be held politically accountable for the decisions to clear the protest sites and fire tear gas at the protesters, so as to prevent them from making similar decisions again?

SECRETARY FOR SECURITY (in Cantonese): President, Hong Kong residents enjoy the freedom of and the right to peaceful assembly, procession and demonstration under the Basic Law. However, in exercising such rights, they shall not wilfully disrupt public order or act in defiance of the law. In 2005, the Court of Final Appeal (CFA) pointed out in a case involving the freedom of demonstration that the right to assembly, procession and demonstration was not unrestricted in that, for instance, if the assembly concerned caused unreasonable obstruction to the free passage along a public road, that is, exceeding what the public can reasonably be expected to tolerate, then the protection for the assembly concerned under the Basic Law would be lost. In another case heard by the CFA in 2012, a permanent judge also pointed out that an act could be properly regarded as "disorderly" when it went well beyond what any citizen would have to tolerate.

My consolidated reply to Mr Frederick FUNG's question is as follows:

When expressing their aspirations, participants of public meetings or processions are advised by the SAR Government to abide by the law and respect others' rights so that the events could proceed in a peaceful and orderly manner without compromising the Police's efforts to maintain law and order. As the guardian of public order, the Police act in accordance with the law under all circumstances and shall, in the light of the prevailing circumstances, take decisive measures against any illegal behaviour and acts in breach of the peace or public order in a bid to maintain public order and ensure public safety.

On 26 September, a public meeting, of which the Police had been notified by the organizer, was held on the pavement outside the CGO. To facilitate the assembly, the Police, subsequent to their issue of the "letter of no objection", co-ordinated with the parties concerned. Regrettably, on that night, participants

of the meeting were directed to storm the gate of CGO and climb over the security fencing in order to force their way into the East Wing Forecourt and occupy it. Charging the police cordon line, the participants pushed over the mills barriers and scuffled with security guards and police officers, posing danger to themselves and other people on the scene, and causing injuries to many people.

Running against section 18(2) of the Public Order Ordinance, the assembly turned out to be unlawful as some of the protesters had conducted acts of violence and incited others to storm government building, disrupting public order and breaching the peace.

Subsequent to the launch of the Occupy Central as announced by its founders in the early hours of 28 September, a large number of radicals with different backgrounds joined the student-led assembly. On the afternoon of 28 September, some protesters broke their way to Harcourt Road, where traffic was running, and occupied it to cause wilfully a massive traffic blockage, severing the transport lifeline of Hong Kong Island. Against the Police's appeals and warnings, a swarm of radical protesters standing in front of the police cordon line, on a number of occasions, deliberately charged the cordon line and seized the mills barriers in an organized manner. They assaulted police officers with umbrellas and water bottles. Deliberately surging forward in an organized manner, they attempted to break the police cordon line. As a result of such behaviour, public safety and public order were seriously at stake. By means of loudspeakers and warning banners, the Police repeatedly advised participants of the unlawful assembly to leave as soon as possible, and gave warnings that the Police would use force if they did not cease charging the police cordon line.

In view of the serious charging at the police cordon line and despite repeated advice and warnings, which turned out to be totally futile, the Police used Oleoresin Capsicum (OC) foam to stop protesters from further charging in a bid to minimize the chance of injuries to people on the scene. However, the crowd kept growing and the police cordon line was incessantly charged. The scene was very chaotic as protesters, who were large in number, continued to gather and launched violent charging despite the Police's advice and warnings. On that day, quite a number of protesters were equipped with such gear as goggles, face masks, umbrellas and cling film for eye and body protection from OC foam so that they could continue charging the police cordon line.

In view of the failure to achieve the effect of counteracting the incessant charging of the crowd by the use of OC foam as well as radical protesters' deliberate and incessant acts to crush their way forward, the Police, in preventing the situation from getting further out of control which would lead to more serious casualties, had no alternative but to use tear gas to put an immediate halt to the violent charging staged by the protesters, to create a safe distance from the protesters and to stop any acts that might threaten public safety and public order.

Just imagine once the police cordon was broken through by piles and layers of crowds formed by thousands of protesters, and with swarms of crowds crushing their way forward, the dire consequence of a stampede involving a large number of falls, trampling accidents, serious injuries or even fatalities was highly probable. The Police were, therefore, bound to take immediate measures to keep the crowds at a safe distance in order to avoid heavy casualties that might result from any scuffles or charging acts.

There are strict police guidelines for the use of force in that the force to be used shall be the minimum force necessary for achieving a lawful purpose. Before using force, police officers shall, when circumstances permit, give warning of their intention to use force. The person(s) involved shall be given every opportunity, whenever practicable, to obey police orders before force is used. Police officers exercise a high level of restraint at all times in the use of force. Field commanders shall decide on the appropriate force to be used after an assessment is made in the light of the overall circumstances and practical needs at the material time.

As always, the Police shall consolidate their experience in major operations to meet their future internal security requirements and operational commitments. As far as the Police's handling of the unlawful public assembly since 26 September is concerned, the Complaints Against Police Office has received a number of complaints, which include accusations against the Police of overuse of force during the operation. As advised by the Independent Police Complaints Council (IPCC), owing to public concern over these complaints and the serious degree in the accusations, all reportable complaints arising from the incident shall be referred to the Serious Complaints Committee for follow-up action. The Police shall fully co-operate with the IPCC in their work.

Hong Kong Police Force is a highly professional and outstanding disciplined force. During the operations in recent days, front-line officers have stood fast to their posts and performed their duties with perseverance and untiring devotion in a professional and impartial manner while exercising a high level of restraint. When facing large-scale rallies, they have to maintain public order and safety in a fair manner with utmost restraint, to stand in and settle from time to time battles of words and confrontation between opposing sides, and, at a point of emotional intensity among the crowds, also to separate crowds, …

(A person in the public gallery shouted and cast pieces of paper)

PRESIDENT (in Cantonese): The person in the public gallery, leave the public gallery at once.

(The person in the public gallery continued to shout)

PRESIDENT (in Cantonese): Leave the public gallery immediately.

(Security personnel assisted the person in leaving the public gallery)

PRESIDENT (in Cantonese): Secretary, please go on.

SECRETARY FOR SECURITY (in Cantonese): President … prevent conflicts and protect protesters. Such difficult and perilous situations and challenges have well been witnessed in recent television news coverage. The SAR Government fully supports the Police in their continued efforts to handle with utmost professionalism and restraint such extremely difficult tasks. It is further hoped that there is understanding, recognition and support from various sectors of the community.

PRESIDENT (in Cantonese): Urgent Question 2.

Immediate Review of Decision-making Mechanism Concerning Use of Weapons to Disperse Participants of Peaceful Assemblies

2. **MS CYD HO** (in Cantonese): *President, it has been reported that the repeated use of tear gas and pepper spray by the Police on the 28th of last month to suppress participants of a peaceful assembly has triggered fierce public resentment, and the use of violence by the Police against participants of the peaceful assembly has become the focus of international media. As there are still a lot of members of the public participating in that assembly and the crisis is not yet over, will the Government inform this Council of the decision-making mechanism currently adopted by the authorities concerning the use of lethal weapons such as tear gas, rubber bullets and live ammunition to disperse participants of peaceful assemblies, including the respective roles under the aforesaid mechanism played by the Chief Executive, the Commissioner of Police and the officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, as well as the rank(s) of the officials who are vested with the authority to make the decision of using such weapons; whether it has immediately reviewed the mechanism since the 28th of last month; if it has not, of the immediate measures that will be adopted by the authorities to prevent the Police from unreasonably using lethal weapons against participants of peaceful assemblies, thus leading to tragedies of bloodshed?*

SECRETARY FOR SECURITY (in Cantonese): President, on the afternoon of 28 September, some protesters broke their way to Harcourt Road, where traffic was running, causing wilfully a massive traffic blockage to sever the transport lifeline of Hong Kong Island. They also resorted to violent acts by charging the police cordon line. The rally was an unlawful assembly. It was the responsibility of the Police to take resolute measures to restore public order and public safety.

My reply to Ms Cyd HO's question is as follows:

There are strict police guidelines on the use of force, which provide clearly that the force to be used shall be the minimum force necessary for achieving the purpose of a police operation. All field commanders are authorized to use force based on their professional judgment made in the light of the prevailing situation at scene, overall circumstances and operational needs. They are in no way required to seek their supervisors' advice for each instance. Before force is used,

police officers shall, where circumstances permit, give warning of their intention to use force and give the person(s) involved every opportunity to obey police orders. Police officers exercise a high level of restraint at all times in the use of force. There is a clear purpose for the Police to use tear gas, that is, to deal with crowds that may cause an out-of-control and, therefore, dangerous situation, or to stop and prevent further charging by crowds at police cordon so as to ensure public safety, restore social order and avoid injuries to both the crowds and the police officers.

Subsequent to the launch of the Occupy Central as announced by its founders in the early hours of 28 September, a large number of people with different backgrounds joined the student-led assembly outside the Central Government Offices. On the afternoon of the same day, against the Police's appeals and warnings, some radical protesters in the front deliberately charged the police cordon line on a number of occasions and seized the mills barriers. They even assaulted the police officers with umbrellas and water bottles. Deliberately surging forward in an organized manner, they attempted to break the police cordon line. Such behaviour put public safety and public order seriously at stake and was in breach of section 18 of the Public Order Ordinance. The Police reiterated repeatedly that the assembly was unlawful, and by means of loudspeakers and warning banners, repeatedly advised participants of the unlawful assembly to leave as soon as possible, while warning that the Police would use force if the participants did not cease charging the police cordon line.

In the ensuing moments, the police cordon line was still under serious charging. Given that their advice and warnings were in vain, the Police used Oleoresin Capsicum (OC) foam to stop protesters from further charging in a bid to minimize the chance of injuries to people on the scene. However, the crowd kept growing, and the scene was very chaotic as people continued to gather and launched violent charging despite numerous police advice and warnings. On that day, quite a number of protesters were equipped with such gear as goggles, face masks, umbrellas and cling film for eye and body protection, which rendered the OC foam ineffective.

As the use of OC foam had failed to achieve the desired effect and stop the situation from further deterioration that might lead to more serious casualties, the Police had no alternative but to use tear gas in a bid to put an immediate halt to the violent charging staged by protesters, to create a safe distance between the police officers and the crowds charging at them for the purposes of minimizing

the chance of injury to both sides during scuffles as well as preventing serious disruption to social order or even casualties caused by rallies.

In the course of operation, the field commander had made a professional assessment and judgment in the light of the actual circumstances and operational needs at the material time before making the decision to use force. Senior officials of the SAR Government, including the Chief Executive and myself, as well as the Commissioner of Police, had been keeping a close watch on the whole picture and development of the event. We are in support of the Police's professional judgment and the measures taken by them to protect public safety and maintain social order. We consider that the Police were restrained in dealing with the case and that the force they used was appropriate. The operation conducted on the day, being an issue related to the protection of social order and public safety by the Police, was entirely within the jurisdiction of the SAR Government.

I would like to emphasize that tear gas is one of the Police's regular items of equipment in tackling charging acts involving a crowd. In general, it will only trigger temporary discomfort to protestors with charging act. In contemplating the use of force, the Police take tear gas and OC foam as a viable means to stop people from charging and make them disperse by triggering temporary discomfort to them. Once OC foam has failed to counteract effectively the charging launched by large crowds of protesters on the scene, which may possibly lead to a break-off of the police cordon and a stampede involving a large number of falls, trampling accidents or serious injuries as a result of the charging launched by a great number and layers of protesters, the Police have to use tear gas to put an immediate halt to the charging and create a safe distance to avoid mass and serious casualties on the scene. Under normal circumstances, tear gas and OC foam will not bring about permanent body harm. In many countries (including advanced countries in Europe and America), tear gas is a standard item of equipment for the Police to tackle the charging acts of a crowd. The ways in which they use and the principles that govern such use are similar to those of the Hong Kong Police Force.

I reiterate that the rally on Harcourt Road on the afternoon of 28 September, which caused massive traffic blockage to trunk roads and launched violent charging at the police cordon line, was an unlawful assembly. It is the responsibility of the Police to take resolute measures to restore public order and public safety.

Over the past days, the road blockage in different areas of Hong Kong Island and Kowloon caused by the rallies has paralysed the traffic of major trunk roads, depriving many members of the public of normal daily life. In the interest of their own safety and the community at large, we appeal to protesters on the scenes to leave peacefully as soon as possible to make way for emergency and public vehicles. We also appeal to the protesters to remove obstacles on the roads to restore unimpeded traffic, so that the community's daily life could return to normal.

PRESIDENT (in Cantonese): Urgent Question 3.

Immediate Measures to Protect Personal Safety of Assembly Participants and Journalists

3. **DR HELENA WONG** (in Cantonese): *President, before reading out my urgent question, I have to put up a strong protest against Mr WONG Kwok-hing's groundless impugning of Members' motives in raising questions and denounce Mr WONG Kwok-hing's shameful act of smearing. President, I will now read out my urgent question.*

It has been reported that on the 3rd and 4th of this month, some members of the public who participated in the Occupy Central movement and gathered in Mong Kok, as well as journalists covering the activities, were assaulted and injured, posing a serious threat to their personal safety. In addition, some female participants of the assembly were allegedly indecently assaulted and sexually harassed. There were media reports that police officers at the scene had let go the assaulters. Furthermore, a reporter of the British Broadcasting Corporation said that based on the information obtained from the Police, the attacks obviously involved triad members. As the assembly is still going on, will the executive authorities inform this Council:

(1) whether the Police have immediately reviewed if their failure to prevent the occurrence of incidents in which assembly participants were attacked by a number of triad members was due to inadequacy in their efforts in collecting intelligence on triad activities or their sluggish deployment of police manpower, so as to take measures in the light of the review outcome in order to prevent recurrence of

similar incidents; if they have conducted such a review, of the outcome;

(2) *as it has been reported that the Police did not forthwith arrest and detain those persons suspected of deliberately provoking, shoving, punching and kicking, as well as indecently assaulting assembly participants, whether the Police will immediately step up law-enforcement efforts in order to curb the recurrence of such illegal acts; and*

(3) *whether they have taken specific immediate measures and followed up on the procedures for making decisions on the handling of the incidents by the Police, in order to prevent assembly participants from being attacked again, and to protect the personal safety of assembly participants and journalists; if they have, of the details?*

SECRETARY FOR SECURITY (in Cantonese): President, since 29 September, crowds of people have been occupying major trunk roads in Mong Kok for an unlawful assembly for more than 10 days. Their illegal acts have seriously blocked the traffic and the substantial nuisances they created have caused intense dissatisfaction among the residents and business operators in the district, triggering the recent spate of violent confrontations in Mong Kok in which police officers and members of the public were injured. The SAR Government severely condemns such violent acts on the scene.

My consolidated reply to Dr Helena WONG's question is as follows:

The incidents in Mong Kok on 3 and 4 October were mob confrontations that rarely happened in Hong Kong for many years. The incidents occurred all of a sudden with surging crowd size gathering within a very short span of time. A great number of ubiquitous confrontations and physical scuffles took place at different spots of the scene. Confronted with such an extremely chaotic situation on that day, the Police tried their very best to keep the scene under control and maintain order.

From the afternoon of 3 October to the early hours of 4 October, big groups of supporters for and against the Occupy Central assembled in Mong Kok, which turned into chaos as confrontations broke out between the two sides. In view of

the surging crowd size within a short span of time, the Police immediately deployed manpower for reinforcement from various Regions in Hong Kong, Kowloon and New Territories. At the outset, police officers formed a human chain in an attempt to separate the two sides, while making way to escort those who needed assistance, who wished to go away or who were injured to leave the scene. A number of police officers also sustained injuries during the process.

Later on, as the crowd kept growing at the place of the assembly, there were ubiquitous confrontations at scattered points in the area. The Police experienced practical difficulties in dashing to every single confrontation point that required attention. As roads were seriously blocked by the crowds and obstacles, police vehicles could not get to the scene directly and some police officers even had to be on foot and to take the MTR. The Police's reinforcement actions were thereby hindered.

During the operation on that evening, the Police arrested 19 persons, eight of whom identified with triad background were suspected of assaulting police officers, participating in unlawful assemblies and fighting in public places. As at 13 October, a total of 52 persons were arrested for suspected fighting in public places, indecent assault, intimidation, and so on, during the confrontations in Mong Kok. The Police shall seriously pursue these cases in accordance with the law and they do not rule out further arrests.

Mong Kok, as a crowded and congested area, is prone to conflict. The Police shall spare no effort in following up those suspected illegal acts during the confrontation in question.

As a matter of fact, the Police attach great importance to triad-related crimes, and the combat of triad activities has been one of their operational priorities. Throughout the years, the Police have endeavoured to fight against triad crimes in an impartial and undaunted manner. On the enforcement front, the Police have always adopted a holistic approach in combatting triads and their activities. From January to August this year, a total of 1 194 cases of triad-related crimes were recorded and 1 775 persons were arrested by the Police.

Regarding the remark that the Police did not take immediate enforcement actions against violent acts in the assembly in Mong Kok, I would make clear the following points. First, it is extremely difficult for the Police to maintain order and ensure the safety of people on the scene in a crowded and chaotic situation.

In handling large-scale assemblies and confrontations, the Police's top priority is to avoid deterioration of the situation as quickly as possible, lest casualties may be triggered. Second, on that evening, apart from making arrests, the Police endeavoured to render assistance to those who wished to go away while requiring help for that purpose, as well as those whose personal safety was at stake as considered by the Police, by escorting them out of the scene and taking them to a safe place, without taking into account which side they were on during the confrontation. It is always the Police's responsibility to escort those facing danger to leave the scene. Third, the Police shall definitely follow up, in accordance with the law, any case in which there is evidence for suspected offences. We appeal to members of the public to report to the Police unlawful acts such as indecent assault or assault with violence which are considered to have taken place and provide information for the Police's investigation and follow-up.

I have to reiterate that against such a crowded and chaotic scene in Mong Kok on the day, the police officers tried their best to enforce the law in a manner unbiased to neither side, to maintain order, to protect those on the scene and to separate people with opposing views. The allegations that the Police "did not enforce the law in full effort" and even "set free the assailants" and that the Government "connived at the criminals", and so on, are extremely unfair to those police officers who faithfully performed their duties with conviction and toiled on the scene. I would note such allegations with great regret.

Following the incidents on 3 and 4 October, police manpower has been stepped up in Mong Kok. Despite the signs of lesser tension in the District in recent days, some Occupy Central protesters are resolute to stay. The Police shall keep a close watch on the situation in the District and make appropriate deployment. Again, I appeal to members of the public not to assemble in Mong Kok. I urge all those who are gathering there, irrespective of the side they are for, to leave the scene as soon as possible. Personal safety should come first. Members of the public shall be in gear with the Police by joining effort to avoid confrontations or chaos.

I hereby reiterate that in the recent large-scale protest activities, police officers, on top of their long hours of work, have been subjected to verbal provocations, insults and personal attack from time to time. As at 13 October, 30 police officers were injured in the course of operations. In spite of all these, the Police shall continue to discharge their duties professionally, impartially and

in a manner unbiased to neither side when tackling the challenges arising from the current protest activities. The SAR Government shall continue to give full support to the Police in maintaining the law and order of Hong Kong with utmost professionalism.

PRESIDENT (in Cantonese): Urgent Question 4.

Immediate Review of Display of Warning Banners to Protesters by Police

4. **DR KWOK KA-KI** (in Cantonese): *President, prior to firing tear gas to disperse the participants of the assembly in areas around Admiralty on the 28th of last month, the Police displayed to them a number of times warning banners printed with the wording of "Warning tear gas" on one side and "Disperse or we fire" on the other side. The Chief Superintendent of the Police Public Relations Branch explained at a press conference held on 30 September that the wrong side of the banner might have been displayed possibly due to the chaotic situation at the scene, and that the Police had no intention to fire on the crowd. However, a number of photographs showed that the Police had displayed several banners of this type to the assembly participants, with both sides of the banners facing the participants. Given that the assembly is still going on, will the Government inform this Council whether the Police have immediately reviewed their mechanism for displaying various types of warning banners to protesters, including the rank(s) of the officers who decide what type of banners are to be displayed, the decision-making procedure, and whether the Police should cease using various types of warning banners with two sides printed with different wording when handling the aforesaid assembly in future, so as to avoid causing public panic again due to the conveyance of wrong messages; if they have reviewed, of the outcome; if not, whether they will conduct such a review immediately?*

SECRETARY FOR SECURITY (in Cantonese): President, my reply to Dr KWOK's question is as follows:

When handling public order events, the Police shall take resolute measures against participants' illegal acts like violent charging or disorderly conduct for the purpose of public order and public safety. There are strict police guidelines for the use of force. Field commanders shall make a professional assessment in the

light of the actual circumstances and operations at the material time for operational deployment, including whether force shall be used and, if yes, what type of force is to be used. Before using force, they shall as far as possible ensure that warnings have been issued, and the persons involved are given the opportunity to obey police instructions. In alerting the participants of their warnings, the Police are equipped with warning flags, in addition to making verbal warnings. Police officers shall, in the light of the actual circumstances, display such flags to the participants. It is shown on some warning flags that force may be used.

At the unlawful assembly along Admiralty on 28 September, some of the protesters, against the Police's repeated appeals and warnings made through loudspeakers, seized the mills barriers and assaulted the police officers with umbrellas and by throwing water bottles at them on a number of occasions. They wilfully attempted to break through the police cordon in an organized manner, seriously jeopardizing public safety and public order. Such intense charging acts also put the personal safety of the front-line police officers and people gathered seriously at stake. In case rows upon rows of radical protesters standing at the front broke through the police cordon, swarms of people would rush forward, which would probably result in a "trampling" tragedy arising from a stampede where people were pushed over or fell down. The consequences could be dire. Upon assessing the prevailing circumstances, the field commander made a professional judgment and decided to use appropriate force, including the use of tear gas.

Prior to the use of force, the Police had, on many occasions, warned the people gathered to stop their charging acts. Before using the tear gas, repeated warnings had also been given to protesters charging the police cordon by displaying warning flags with the sign "WARNING TEAR SMOKE" to indicate the level of force that might soon be used. The concerned warning flags used on that day were double-sided; the side facing protesters charging the police cordon was black with the words "WARNING TEAR SMOKE", whereas the side facing away from protesters charging at the Police was orange with the words "DISPERSE OR WE FIRE". The police officers holding up the flag were surrounded by crowds of people from all sides amidst the extreme chaos on the scene. It was in fact the Police's intention to display the side showing "WARNING TEAR SMOKE" to protesters charging the police cordon. In their clarification on the same day, the Police emphasized that they absolutely had no intention to use arms to fire bullets.

The double-sided warning flags have been in use for decades. The Police will conduct a review and consider taking improvement measures to meet different operational commitments.

PRESIDENT (in Cantonese): Urgent Question 5.

Formulating Measures Right away to Alleviate Impact of Occupy Central Movement on Society

5. **MR TAM YIU-CHUNG** (in Cantonese): *President, it has been learnt that as the assemblies triggered by the Occupy Central movement have been going on for 10-odd days until now causing a number of major trunk roads on Hong Kong Island and in Kowloon being blocked by assembly participants, services of over 200 public bus routes, over 20 green minibus routes and the trams have been affected. As the alternative roads in the affected districts have limited capacity, extensive traffic congestion is common in such districts with tailbacks once reaching over 20 km, thus seriously affecting the daily lives of members of the public and business operation. In this connection, will the Government inform this Council:*

(1) as the railway has now become the only mode of transport for the majority of the public, whether the authorities have forthwith formulated contingency plans to cope with the scenario in which train service of any railway line, particularly the Island Line, Tsuen Wan Line and Kwun Tong Line, is suspended due to occurrence of incidents, so as to prevent the traffic on Hong Kong Island and in Kowloon coming to a halt; if they have, of the details; if not, whether they will formulate such contingency plans right away;

(2) as quite a number of small business operators engaged in the transportation, retail, catering and tourism industries have relayed to me that their businesses have been hard hit by the road blockages and their employees have also suddenly lost their means of living, whether the authorities have forthwith assessed the losses suffered by these industries and introduced targeted emergency relief measures for such industries on the basis of the assessment outcome; if they have, of the details; if not, whether they will conduct such an assessment right away; and

(3) *whether it has formulated contingency plans to ensure that, in the event of occurrence of major traffic accidents, fires or industrial accidents, and so on, emergency service vehicles (including police vehicles, fire engines and ambulances) and their personnel can arrive at the scene in the shortest possible time; if it has, of the details; if not, whether it will formulate such contingency plans right away?*

SECRETARY FOR SECURITY (in Cantonese): President, the illegal assemblies triggered by the Occupy Central movement have been going on for 10-odd days. They cause congestion in major trunk roads on Hong Kong Island and in Kowloon, and severely affect the lives of the general public. Various District Offices have received a large number of complaints from parents, students, business owners and employees regarding the traffic congestion in Central and Western, Wan Chai and Mong Kok, which has seriously affected the daily lives, schooling and business of many.

The Government respects the right to the freedom of expression. However, at the same time we request that the public should, when expressing views, abide by law, respect the rights of other road users and take into account the interest of the general public. We have been urging participants of the illegal assembly to end their concerned actions in various districts and suggesting them to use the Tamar Park and the Central and Western District Promenade (Central Section), the Lawn in Victoria Park and the MacPherson Playground in Mong Kok, which are larger in size and will not disrupt traffic or the daily lives of the public. Unfortunately, these suggestions have not been positively responded to by the road occupants.

My reply to various parts of the question is as follows:

(1) Since the start of the Occupy Central movement, we have seen serious impact extensively on the road transport services on Hong Kong Island and in Kowloon as a result of road closure and traffic diversion.

As regards railway services (except for Light Rail), the highest daily patronage during the past 10-plus days (that is, 3 October) is about 5.8 million. This is 13% higher than a normal Friday daily

patronage of about 5.1 million. Train compartments are very crowded and passengers usually have to wait for several trains more and spend more time for boarding. Without compromising railway safety and apart from continuing to run at two minutes peak headway from 7.15 am, the MTR Corporation Limited (MTRCL) has also enhanced day-time train services as necessary. Although the increased frequency of train services will not affect railway safety, given that the two minutes peak headway for Kwun Tong Line, Tsuen Wan Line and Island Line has already reached the limit of the existing signalling system and that train services being provided in other hours of the day-time are close to the system limit as well, the risk of service disruption will naturally increase if this situation persists. In addition, MTRCL has deployed additional staff for maintaining effective passenger flow management in the past 10-plus days in accordance with established procedures. Having regard to the actual situation, it has also implemented further passenger flow management measures at some stations with higher volume of passenger flow such as Admiralty and Mong Kok, and so on, to ensure smooth train operation and passenger safety.

MTRCL has all along drawn up contingency plans for various service disruption situations specific to the needs of individual stations. When any contingency plan is activated, MTRCL will suitably adjust its railway services to minimize the impact and arrange free MTR shuttle buses to ease passenger flow.

As some trunk roads affected by the Occupy Central movement are still closed, MTRCL will have rather limited ability to deploy shuttle buses and ease passenger flow even if a contingency plan is activated, depending on the extent and duration of service disruption as well as the locations and number of affected MTR stations.

As for bus services, the highest number of bus routes affected during the past 10-plus days (that is, 30 September) is 270, accounting for about 48% of all bus routes in Hong Kong, and these included 77 suspended routes and 193 diverted routes. As at yesterday (14 October), despite some roads such as Queensway having been reopened, 227 bus routes were still affected, accounting for about 40% of all bus routes in Hong Kong, and these included 11 suspended routes and 216 diverted routes. Regarding the most

affected areas on Hong Kong Island, as at yesterday (14 October), about 64% of Hong Kong Island bus routes were still affected. In addition, Hong Kong Tramways services between Island East and Island West have been suspended and only sectional services are provided. Green minibuses and taxis are also affected due to road blockage or traffic congestion.

In this regard, the Government expresses heartfelt gratitude to public transport service operators which have been working closely with the Transport Department (TD) during this period of time, especially for the strenuous efforts of their front-line staff in maintaining smooth provision of transport services. Meanwhile, the Government is also very grateful to members of the public who have been exercising the greatest tolerance and have changed their travelling patterns such as reducing the use of private cars and setting off early, and so on, to help relieve the pressure on roads.

(2) Since the start of the Occupy Central movement, various public transport services including buses, trams, minibuses and taxis have been affected. For example, some members from the minibus and taxi trades express that their business turnovers have dropped significantly due to factors such as traffic congestion, road diversion and a drop in business. The Government will closely monitor the situation and maintain close dialogue with operators to understand their needs. Trucks and other commercial vehicles are also affected to different extents depending on their individual business operation. For example, some trucks have experienced delay in delivery and increase in operating cost due to lengthened route and travelling time.

In addition, the Government has been closely monitoring the impact of the Occupy Central on different sectors. Those sectors being directly affected include retail, tourism, catering and transportation, and so on. Other sectors may also be indirectly affected. The Commerce and Economic Development Bureau has met with 20 commerce organizations or associations of different trades to understand the impact of the Occupy Central movement on business operation. According to the information obtained during the meetings, the business of the retailers near areas of protests and

illegal occupation was most adversely affected. The drop in business of small and medium enterprise (SME) retailers in Mong Kok, Causeway Bay or Tsim Sha Tsui was as high as 80%. Some trade associations also learnt that some overseas clients cancelled their business trips to Hong Kong. As for the tourism sector, the business of hotels and tourist attractions in individual districts (for example, areas from Central to Wan Chai) has also been affected. The trade is worried that if the situation continues, it would affect the livelihood of front-line employees of the tourism industry, and reduces the desire of visitors (including business and leisure travellers) to visit Hong Kong. This would inevitably give a blow to the tourism industry in Hong Kong during the peak tourism season in the coming few months. The overall actual impact can only be ascertained upon the release of economic data in the next quarter.

If the Occupy Central movement continues, SMEs will be most hard hit. At present, the Government has a series of cross-sector schemes that provide assistance to SMEs, including the ongoing SME Loan Guarantee Scheme administered by the Trade and Industry Department and the special concessionary measures under the SME Financing Guarantee Scheme of the Hong Kong Mortgage Corporation Limited. Enterprises affected by the Occupy Central movement and facing financial difficulties may consider applying for the two schemes above.

The Government will closely monitor the situation and further assess the impact on economic development when more data is available.

(3) Risk assessments and contingency plans have all along been made by government departments in relation to various types of major incidents, which include the deployment of resources and manpower required for handling emergencies, in order to handle emergency incidents arisen from such circumstances.

In the past 10-odd days, the illegal occupation of a number of major trunk roads by assembly participants on Hong Kong Island and in Kowloon has resulted in serious traffic congestion. Emergency vehicles need to detour. Various government departments have been monitoring and assessing the development with a view to

making corresponding arrangements. Responses to some emergency calls have, however, inevitably been delayed. For example, the Response Time performance for emergency ambulance services in Central (including Admiralty), Causeway Bay and Wan Chai, and Mong Kok was 75.9%, 89.1% and 93.9% from 28 September to 13 October, which showed decreases as compared to figures before the Occupy Central movement. Some cases also experienced delay ranging from 20 to 40 minutes.

To ensure that police vehicles, fire appliances and ambulances can promptly reach the scene for emergency services, departments concerned have been working closely to provide emergency vehicles with information on the fastest route to the scene in a timely manner. In collaboration with the Police, other relevant departments and public transport service operators, the Emergency Transport Co-ordination Centre of TD closely monitors the traffic conditions of the areas concerned and takes co-ordinating action. In addition, to minimize traffic disruption caused by road blockage, officers from the Transport Division of Police conduct realtime traffic control and direction along the affected areas so as to divert and ease traffic. When necessary, the Fire Services Department will despatch vehicles in duo to the scene by taking different routes, that is, vehicles from different fire stations or ambulance depots will be despatched, to ensure that at least one of the two vehicles from either direction can reach the scene swiftly. This is to minimize the impact on fire-fighting or ambulance services for the sick and injured resulting from such traffic delay. However, we consider such arrangement highly unsatisfactory as it will thin out the resources of emergency services for other districts, thereby affecting the emergency fire and ambulance services provided for members of the public and the sick and injured in other areas.

Again, I urge all protesters, who have illegally occupied the roads for a long span of time, to remove their obstacles as soon as possible and to leave in an orderly manner, so that the roads can be reopened to emergency vehicles for provision of timely emergency rescue services to those in need.

PRESIDENT (in Cantonese): I will now call on Members to raise supplementary questions. More than 50 Members have requested to ask supplementary questions, including the five Members who have earlier asked urgent questions. Since this Council and society are highly concerned about the theme of the urgent questions, I will allow all Members who have indicated their wish to ask supplementary questions. However, Members should be concise and should refrain from making comments when raising their questions. Members should voice their views, if any, when this Council holds a debate later.

MR ALBERT HO (in Cantonese): *President, since more than 50 Members are queuing up, will you let us know the order of raising supplementary questions? I believe the following question session will be quite lengthy.*

PRESIDENT (in Cantonese): I will now read out the order for raising supplementary questions in batches. The first batch includes the five Members who have asked the urgent questions, that is, Mr Frederick FUNG, Ms Cyd HO, Dr Helena WONG, Dr KWOK Ka-ki and Mr TAM Yiu-chung, to be followed by Mr Jeffrey LAM, Mr Christopher CHEUNG, Mr Andrew LEUNG, Prof Joseph LEE and Ir Dr LO Wai-kwok. I will ask Members to raise supplementary questions in this order.

MR FREDERICK FUNG (in Cantonese): *President, I mentioned in the preamble of my urgent question that without giving any warning, the Police applied tear gas against the students standing behind mills barriers outside the Central Government Offices at Tim Mei Avenue although they had done nothing to charge at the police cordon lines. In part (3) of my urgent question, I asked the Secretary if investigation has been conducted into the matter but the Secretary has simply ignored it and made no mention of it in his main reply. Is this what the former Chief Executive Mr TUNG Chee-hwa said, making no reply means nothing will be done and nothing has been done?*

In the last paragraph on page 3 of the main reply, the Secretary said when responding to my question on the criteria, (quote) "… Before using force, police officers shall, when circumstances permit, give warning of their intention to use

force. The person(s) involved shall be given every opportunity, whenever practicable, to obey police orders before force is used. Police officers exercise a high level of restraint at all times in the use of force." (unquote) When applying this practice and instruction to the situation at Tim Mei Avenue, the Secretary is lying!

PRESIDENT (in Cantonese): Mr FUNG, please ask your supplementary question.

MR FREDERICK FUNG (in Cantonese): *As the Secretary, why has he to lie in the Legislative Council?*

SECRETARY FOR SECURITY (in Cantonese): All that happened that day had been broadcast live on television. Although the live television broadcast shots were taken from various angles and areas, I believe everyone could grasp the general situation then. The Police were being charged at on the afternoon of 28 September, with a large crowd occupying the road surface of Harcourt Road all of a sudden, and the Police needed a …

MR FREDERICK FUNG (in Cantonese): … *I was talking about Tim Mei Avenue.*

PRESIDENT (in Cantonese): Secretary, please wait. Mr FUNG, you have raised your supplementary question, please allow the Secretary to reply.

MR FREDERICK FUNG (in Cantonese): *Since the Secretary has said Harcourt Road.*

PRESIDENT (in Cantonese): Secretary, please go on with your reply.

SECRETARY FOR SECURITY (in Cantonese): We can see that the Police were taking action on the entire stretch of Harcourt Road at that time. As for Tim Mei Avenue, I myself found no similar situation there.

MR FREDERICK FUNG (in Cantonese): *Why was there no investigation?*

PRESIDENT (in Cantonese): Let me again remind Members this is not a debate. Mr FUNG, if you have any opinions, or if you are not satisfied with the Secretary's reply or hold different views, you can express them when the Council holds a debate later. But please do not interrupt the Secretary's reply.

(Mr Frederick FUNG stood up)

MR FREDERICK FUNG (in Cantonese): *However, the Secretary has not replied.*

PRESIDENT (in Cantonese): Mr FUNG, I have to remind you again that you should not rise and speak without my permission.

SECRETARY FOR SECURITY (in Cantonese): Regarding the entire incident, I believe we cannot just focus on one point, and we should set our eyes on the spot at which the crowd mainly rallied and charged. Therefore, when Mr FUNG looks at the incident, I wish he could take an overall view because the action that the Police took was in its entirety.

Secondly, regardless of what force is to be taken, the Police will issue prior warning. On that day, the Police used loudspeakers to give verbal warning to the protesters on the spot, and displayed various flags asking them not to charge at the police cordon line. At the same time, when it became necessary to use certain level of force, warning flags were also displayed. I beg to differ when Mr FUNG accused me of not giving the real picture. I absolutely cannot agree. From the numerous television scenes and newspaper photos, we can clearly see that the Police made incessant and repeated appeals. Then, only when the police

cordon line was charged at and was on the verge of collapse, and only when waves and waves of protesters got the chance to break through the police cordon line that the Police took the appropriate action.

Let us consider this: why did the Police take law-enforcement action that day? They had set up a cordon line to prevent some protesters from charging, and we can see on television what tools they brought along to the rally. In this connection, I have mentioned more than once in my main reply and do not intend to repeat here. Nonetheless, as to what the real picture is, I believe a vast amount of information has been laid before us.

MR FREDERICK FUNG (in Cantonese): *The Secretary is still focusing on Harcourt Road. He admitted he had no knowledge of the situation at Tim Mei Avenue. I would like to ask if he considers an investigation necessary? Does making no mention of it mean that there can be no action?*

PRESIDENT (in Cantonese): Mr FUNG, you have made your point, please sit down.

The Clerk has prepared the list of Members queuing up to ask supplementary questions. Members can see the list from the computer display on your desks.

MS CYD HO (in Cantonese): *President, the Police started to fire tear tombs from around six o'clock in the evening of 28 September until six o'clock in the early morning of 29 September, which is more than 12 hours in total. I believe the Chief Executive should have been watching the television, and he should have fully understood that the people protesting were peaceful and non-violent. However, he called no halt, and the Government's reply is that the SAR Government is fully responsible for this decision. That said, we have also noticed that Mrs Carrie LAM, the Chief Secretary for Administration, said she is an outsider, and will not meddle. I would like to ask the Secretary, if there are different opinions and views within the Government on the use of tear tombs to suppress the ralliers, is LEUNG Chun-ying, the Chief Executive, the ultimate one with the final say to allow the Police Force to continue attacking the ordinary*

people? Is there no one to counterbalance LEUNG Chun-ying, not even the Chief Secretary for Administration, to prevent a violent crackdown? In future, who can play the check-and-balance role to stop LEUNG Chun-ying in his continued frenzy, which may even result in bloodshed?

SECRETARY FOR SECURITY (in Cantonese): President, when I gave my main reply earlier, I had over and again stated clearly that there were strict police guidelines for the use of force, and when the commander on the spot had to instruct police officers to use certain force, he would make his professional assessment in accordance with the actual situation and the need for action. Thus, there is no question of having to ask the senior level for instruction on the use of force. I would also like to reiterate here that the senior officials of the SAR Government are closely monitoring the entire situation and development, but the commander at the scene also has the power to make decisions. As the incident continues to unfold, a notification mechanism has been in place for the Police to report on the action taken on the spot. I totally disagree with Ms HO. First, she said the Police attacked the protesters on the night of 28 September, but we were protecting the cordon line. Second, in general, the senior colleagues of the SAR Government fully support the Police in enforcing the law.

MS CYD HO (in Cantonese): *My question just now was very clear. The fact is: the Chief Executive has not called halt; the Chief Secretary for Administration said she is an outsider …*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MS CYD HO (in Cantonese): *… in that case, is there anyone to counterbalance LEUNG Chun-ying, including urging him to ask the Police Force to stop this kind of attack?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): The Police Force is performing its duties in accordance with the law. The front-line commander has the power to make professional decision based on the situation, and as the senior management level of the Government, we fully support the Police to act in accordance with the law.

DR HELENA WONG (in Cantonese): *President, we also agree that the front-line police officers are having a hard time. The Secretary also emphasized that the Police Force is very professional, but we saw what happened on Lung Wo Road last night. Seven police officers arrested a peaceful protester and after tying his hands to his back with plastic straps, they carried him to a dark corner. Some police officers stood guard while others beat and kicked this protester, and the process was recorded by the crew of a television station …*

PRESIDENT (in Cantonese): Please raise your supplementary question.

DR HELENA WONG (in Cantonese): *… I would like to ask the Secretary whether this can be regarded as the police officers treating the protester in a professional manner? If only a minority of the police officers are involved in such illegal acts, may I ask Secretary LAI whether these seven police officers concerned have been arrested? Will there be a proactive investigation?*

SECRETARY FOR SECURITY (in Cantonese): I am aware of the footage captured by the media concerned, alleging that some police officers have used undue force on a protester. The Police are concerned and have immediately taken follow-up action and conducted an impartial investigation. The Complaints Against Police Office has received the complaint relating to the incident and will handle it according to the established procedure fairly and impartially. As for the alleged police officers, they will also be temporarily transferred from their current duties. I also wish that everyone noted the sequence of events that took place throughout last night and understood that it was necessary for the Police to take timely action. In general, the Police only resorted to their hands and shields in their action, and when necessary, used some pepper spray to disperse those occupying the road. Afterwards, they removed the obstacles, including the cement channel covers, water barriers and mills

barriers. We are all aware that in these 10-odd days, Lung Wo Road has been our main thoroughfare, and if this road remains blocked, how can we maintain as far as possible …

(Dr Helena WONG interrupted)

PRESIDENT (in Cantonese): Dr WONG, please let the Secretary reply first.

SECRETARY FOR SECURITY (in Cantonese): … a smooth flow of traffic? Therefore, I wish Members could understand how the entire incident has evolved, and what I mentioned to Members earlier, that is, the impartial way the Police handled the footage which has been captured by the media.

DR HELENA WONG (in Cantonese): *President, Secretary LAI has not answered my supplementary question. My supplementary question is …*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

DR HELENA WONG (in Cantonese): *… you have to restore people's confidence in the professionalism of the Police Force, and you are already aware that it is against the law for the seven police officers involved to assault a protester who had been tied up. This is in violation of the guidelines of the Police Force. I would like to ask the Secretary if he would immediately arrest and prosecute these "black cops" who have broken the law?*

SECRETARY FOR SECURITY (in Cantonese): President, the Police have immediately taken follow-up action and conducted an impartial investigation. The alleged police officers involved will also be temporarily transferred from their current duties. The Police will definitely handle this case in accordance with the established procedure in a fair and impartial manner.

DR KWOK KA-KI (in Cantonese): *The Secretary has given a shameful reply. The political problem we have seen warrants a political solution. The Police should protect the unarmed citizens. However, as you said, the Police have become a team extremely professional in abusing their power and superb in making extrajudicial punishment.*

PRESIDENT (in Cantonese): Dr KWOK, please ask your supplementary question.

DR KWOK KA-KI (in Cantonese): *President, on the day of 28 September, all the protesters on the spot were defenceless. I was also there. We saw the Police raise the warning that shots would be fired. This is actually the case and is very clear to everyone. You have not answered. Some remarked that you are playing underhand tricks, the Police are playing underhand tricks but I do not quite agree. There can only be two or three possibilities. First, you have played underhand tricks, only that you deny; second, you have all along been lying, and the last one is both you and the Police are idiots, mentally handicapped. We all know that if it is written on one side of the flag that tear gas is to be fired and on the other shots are to be fired, the public will not be able to know clearly which side you want to display. You made it clear in your reply that you were worried there might be a stampede. On that day, what the people saw was the Police with guns loaded with live ammunitions, raising the flag which said shots would be fired. If there really were a stampede that day, the Police must be the culprit.*

PRESIDENT (in Cantonese): Dr KWOK, please raise your supplementary question.

DR KWOK KA-KI (in Cantonese): *President, my supplementary question for the Secretary is: First, are the Secretary and the Police playing underhand tricks or are they idiots? Second, has he conducted a review? I ask this because right now people on the street can see every day these flags of the idiots which has been in use for dozens of years. Will he take the flag back and stop threatening the protesters sloppily?*

SECRETARY FOR SECURITY (in Cantonese): President, first, I want to say I very much disagree with Dr KWOK's remark that the Police have become a team extremely professional in abusing their power. In the entire incident, the Police have exercised utmost restraint. Let me cite an example. A veteran commentator expressed in a local English newspaper that in the handling of this incident, the Hong Kong Police Force have been much more restrained than their overseas counterpart. Let us consider this: In such a serious and large-scale incident, how many people have been injured? Do we have some who are seriously injured? We can compare and imagine. If a similar incident takes place in another place, will the consequence be the same?

As regards the flag, I have stated clearly in the main reply that this is not day one that this flag has been used. It has been in use for a long time, over dozens of years. Of course, we also clearly realize that it is not desirable to have different wording on both sides of the flag. And therefore, as I have said in the main reply, the Police will look into ways to handle the situation better.

DR KWOK KA-KI (in Cantonese): *President, I was very clear when I asked my question. Since this is an urgent question, and right now, there are still many protesters out on the streets …*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

DR KWOK KA-KI (in Cantonese): *I would like to ask if you would improve immediately, stop displaying some tricky two-sided flags to threaten the protesters sloppily? President, we cannot wait some other dozens of years for you to conduct a review sluggishly.*

PRESIDENT (in Cantonese): Please do not comment. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): I think we do not need dozens of years to decide whether or not improvements are required. The purpose of

the Police in displaying a warning flag is to tell those at the scene they will use certain force. I hope Members will understand.

DR KWOK KA-KI (in Cantonese): *President, I asked him about time. I want a clear time frame. Of course, it is good that I heard him say it will not take dozens of years. I would like to know the time.*

PRESIDENT (in Cantonese): Your supplementary question is already very clear.

DR KWOK KA-KI (in Cantonese): *Protesters are there every day. When will you improve?*

PRESIDENT (in Cantonese): Dr KWOK, please sit down. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): I have nothing to add.

MR TAM YIU-CHUNG (in Cantonese): *President, I have a question for the Secretary for Transport and Housing. Over the past 10 days or so, the majority of Hong Kong people have relied on rail service, and in your reply, you tell us that at present, the number of people using rail service every day has gone up by as many as 700 000. Should there be any problem with the rail service, the impact would be colossal. Moreover, over the period that has just passed, the rail service has very often been criticized for incidents such as frequent breakdowns. In particular, the incident that a dog strayed onto the track of the Kwun Tong Line caused much delay. Regarding such conditions, has the Secretary put in place various measures? Although you have told us that free shuttle buses will be arranged to ease the situation, if an accident caused by sudden braking happens and a huge crowd of people come onto the road surface, shuttle buses cannot serve the purpose, and they may not be sufficient to cope with the situation. Will this end up in big chaos? In this regard, do you have various prior warning measures to tackle the situation proactively?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, surely, over the last 10 days or so, since some important major roads have been blocked, and the major means of transport running on the roads, franchised buses in particular, cannot run on their scheduled routes, many people have to turn to the rail system. In his main reply, Secretary T K LAI has pointed out that over the last 10-odd days, the number of people using the rail system — that is, the "heavy rail" — has seen a big increase by 13%. At present, the MTR Corporation Limited (MTRCL) is doing its best to cope with the newly increased passenger flow. Be it on the platforms or inside the stations, the MTRCL has to implement some crowd control measures from time to time to ensure that the orderly situation will not be seriously undermined.

During the morning rush hours, beginning from 7.15 am, we have arranged for the trains to run at two-minute intervals. This is the frequency the existing signalling system of the Kwun Tong line, Tsuen Wan line and Island line may allow under a safe condition. The MTRCL has put in place a set of long-term contingency plans to handle sudden incidents of various nature. Of course, with regard to the impact brought by Occupy Central, the MTRCL also has some concrete contingency plans, but we cannot go into details here.

However, even if there are contingency plans, so long as there is an increase in the flow of rail commuters, there is a limit to the loading of the rail system, which is decided by the safety factor of the signalling system. When a certain limit is reached, train frequencies cannot be further increased. Under such circumstances, the MTRCL can only ease the traffic as far as possible and control the crowd. This will naturally cause inconvenience to people who have to switch to the railway as they cannot use the means of transport which run on the roads.

Of course, in the past few days, some roads were reopened to traffic as obstacles have been removed. That said, as of today, road traffic in fact still faces a big problem. I can provide Members with some latest figures. Early today, eight franchised bus routes are still suspended and quite a number of bus routes (218 in total) have to be diverted. Altogether, 226 bus routes are being affected, accounting for a large proportion of buses, to the tune of 40%. As for green minibuses, three routes are suspended and another 20 have to be re-routed. On the whole, taking Hong Kong Island as an example, close to two thirds of franchised bus routes are affected. Thus, the department responsible for transport matters definitely cannot relax, and it must strive to, as far as possible … On the one hand, it is hoped that with the co-operation of the

protesters, the obstacles can be removed and more roads can be opened, and on the other hand, we have to do our best to ensure that our services can satisfy the daily needs of the people.

MR JEFFREY LAM (in Cantonese): *President, the Occupy Central action has continued for more than two weeks. We can see that right now, many major roads in the affected areas, namely Admiralty, Causeway Bay and Mong Kok, are still blocked, and social order has yet to be restored. We note that there have been clashes in Mong Kok, rendering sleepless nights for people in the affected areas. In fact, the small and medium enterprises (SMEs) are also hard hit. To them, no business means no money for their living, and many have complained to me that such occupation has affected their livelihood. They express a strong wish that the Government can come up with some measures to help them.*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR JEFFREY LAM (in Cantonese): *I will. President, the Business and Professionals Alliance for Hong Kong suggested last week that the Government could follow the practice adopted in 2003 during the SARS outbreak and launch some low-interest loan schemes for businesses affected by Occupy Central as there is a pressing need. Although there are currently measures …*

PRESIDENT (in Cantonese): Please come to your point and ask your supplementary question.

MR JEFFREY LAM (in Cantonese): *… to help the SMEs, if there are loans which can be approved within a few days for them to pay rent and employees' salaries, they can be helped immediately. In this regard, what measures has the Government put in place to offer them immediate assistance?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Commerce and Economic Development, please reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thank you, Mr LAM, for your supplementary question. Actually, just as Mr LAM is, I am also much concerned about the impact of Occupy Central on our normal economic activities, in particular inbound tourism, retail industry and activities relating to the local economy. Therefore, during this period, I have met with 20 business chambers and associations to further understand the actual impact of the Occupy Central action on their business and commercial operations.

Just now, Mr LAM mentioned that during the SARS outbreak in 2003, Hong Kong's tourism, catering industry, retail industry and entertainment industry in different areas were affected and their business plummeted. At that time, there was a special initiative which lasted three months to help these businesses secure loans and retain jobs. This was also a short-term arrangement. Back then, some schemes which are now available were not in place yet. They include the Small and Medium Enterprise (SME) Loan Guarantee Scheme, which Mr LAM is very familiar with. Under the Scheme, SMEs can get $12 million in loan. Moreover, there is also a special concessionary measure in the SME Financing Guarantee Scheme offered by the Hong Kong Mortgage Corporation Limited which provides 80% guarantee protection to loan application by the SMEs. This concessionary measure is open to application until February next year. We are also very much concerned whether the affected SMEs can make their applications under these schemes.

Of course, Members, the sector and myself will pay attention to the development closely. If the situation persists … In terms of operation, October, November and December are important for financing. Therefore, we will keep tabs of the situation and make flexible arrangements where necessary. I am also looking forward to opinions of Members from the business sector so that applications from businesses in need can be handled effectively and with flexibility.

PRESIDENT (in Cantonese): There are still 48 Members queuing up to ask supplementary questions. Even if it takes only two minutes for each Member to ask a question and the Secretary to answer it, it will require more than one and a half hours. Thus, I again remind Members to be up to the point and be concise.

MR CHRISTOPHER CHEUNG (in Cantonese): *President, just as what Mr TAM said earlier, the impact of the illegal Occupy Central is extensive. I would like to ask the Government whether a comprehensive assessment on the economic losses so caused on all walks of life will be made. We in the trade are very concerned whether the Central Government will lower its support for us in view of the illegal Occupy Central, and resort to plan B for establishing the international financial centre. So far, the date for the launching of the Shanghai-Hong Kong Stock Connect has not been announced. Does this imply that it will be postponed as Hong Kong's financial market has been disrupted by the illegal Occupy Central, or are there other considerations?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Commerce and Economic Development, please reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, perhaps let me reply briefly. Just now I also mention that we will keep tabs on how the incident evolves. When there are more data on the effect of Occupy Central on economic development, I will then make more in-depth assessment.

MR ANDREW LEUNG (in Cantonese): *President, the illegal Occupy Central has continued for more than two weeks. In fact we see that in addition to the businesses, wage earners and several million citizens are also affected … In particular, wage earners engaged in the retail and catering industries not only bring home no wages, but are also stripped of their income from tips and commission. Actually, we soon have to face pressure from having to pay school fees and rent. I realize that their emotions have passed the critical point. Although the Government is asking them to remain calm, they have to face many problems. How can the Government resolve the conflicts while allowing the illegal Occupy Central to go on?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Home Affairs, please reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, in recent days, the District Offices in various districts have in fact received numerous complaints from people of different sectors. They reflected that roads have been occupied or blocked, adversely affecting the lives of the ordinary people. Complainants include district councillors, students, parents, chairmen of owners' corporations, small businesses as well as wage earners mentioned by Mr LEUNG, and even the elderly. Due to traffic inconvenience, some elderly people can hardly go for their follow-up consultations or make their way to centres for the elderly, making it impossible for them to carry out their daily activities. We hope that such losses and inconvenience can come to an end soon, and we do not want to see more disputes.

The Director of Home Affairs and several District Officers, together with the chairmen of District Councils, district councillors and residents from various sectors, have over and again visited the spots of street rallies to ask the people staying there, especially the young students, to retreat and return home quickly. Over 200 people, including colleagues from the Home Affairs Department and residents from various districts, took part in such visits. They tried their best and expressed their sincere wish. After listening to the visitors, many young students who had stayed on the streets apologized for causing hardship and inconvenience to the public. Nonetheless, up till now, these people continue to emphasize that their belief remains the same.

At the district level, we have heard the people praise the Police Force of Hong Kong for acting in a professional manner. They deeply feel the huge pressure endured by the hundreds and thousands of police officers who have to work round the clock these days. Also, many organizations have visited police officers at the police stations, presenting them with pennants and fruit baskets to show support for their law-enforcement action.

People at the district level consider that after more than 10 days of occupation, participants of the rallies have clearly expressed their aspiration and therefore they should not occupy the major roads for a long time; nor should they affect the life of the ordinary people. Therefore, they support the Government's move to restore social order as soon as possible. We hope that those staying on the streets will move to some other places which do not cause obstruction to the public if they want to express their opinions.

PROF JOSEPH LEE (in Cantonese): *President, in his reply to part (1) of Mr Frederick FUNG's question (that is, page 3 of the main reply), the Secretary for Security mentioned the condition for the Police to use force. He said the Police exercised a high level of restraint when using force, resorting to the minimum force, for example, both hands, shields and so on. He also said in his reply that there were strict Police guidelines, and it was entirely legal to use force and was in line with the minimum force necessary for the execution of their duties. In general, police officers would give warning before using force. This is his reply.*

I have a supplementary question for the Secretary regarding the assault of an arrested protester at around 3 am this morning. I would like to ask the Secretary what level of force was involved. Before using force, had the Police given prior warning, that is, had the Police warned the person in question before assaulting him in the dark corner? Just now, the Secretary also said that the incident had been reported to the senior level and it had full support of the senior level. I would like to ask the Secretary if a report to the senior level has been made and whether full support for this assault from the senior level has been secured after the report was made? The Secretary also expressed earlier that the Police would be urged to hand the case over to the Complaints Against Police Office (CAPO) in accordance with the established procedure. I would like to ask the Secretary if he would, in this Council, urge the Police Force to make public the entire established procedure so as to ease the minds of the public and let them know that the incident will be dealt with fairly and impartially? Finally, I would like to ask the Secretary how he can assure the Hong Kong public that Hong Kong's Police Force will not assault the arrested and impose extrajudicial punishment?

PRESIDENT (in Cantonese): Member should group all questions into one supplementary question. Secretary, please reply.

SECRETARY FOR SECURITY (in Cantonese): President, just as I have over and again replied and emphasized, the Police have set about to investigate certain circumstances which we have seen on television. I would like to point out here that the Police will be fair and just in their investigation, and will handle the matter in an impartial manner. I do not intend to mix this incident with the overall restraint exercised by the Police over the last 10-odd days in discharging their duties, and would like to urge Members not to do so.

No matter what happens, the Police will definitely handle it fairly and justly. We are talking about a system, under which no matter what happens in the course of discharging its duties, the Hong Kong Police Force will investigate and handle the matter in accordance with the system. Under all circumstances, the Police will hold fast to this system and be fair, allowing no favouritism.

PROF JOSEPH LEE (in Cantonese): *President.*

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

PROF JOSEPH LEE (in Cantonese): *I asked five questions, and he should at least reply to one, but he has not. Has he fulfilled his duty as a Secretary? Does this mean that the top echelon of the Hong Kong Government harbours the Police Force which imposes extrajudicial punishment?*

PRESIDENT (in Cantonese): This is your sixth question. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): President, I do not think that anyone would harbour wrongdoers as mentioned by the Member. I have repeatedly emphasized here that the Police will handle all cases in a fair and just manner.

PRESIDENT (in Cantonese): In order to be fair to the other Members who are queuing up, I remind Members to just ask one question in their supplementary question.

IR DR LO WAI-KWOK (in Cantonese): *President, the Occupy Central movement has seriously hampered road traffic, thus affecting the daily life of the public. Extensive traffic congestion is common in such districts as Central, Admiralty, Wan Chai and in particular, the roads adjacent to the Legislative*

Council Complex and the Central Government Offices, where some places are actually inaccessible. The impacts of traffic congestion can also be witnessed in the events and conferences held in the Hong Kong Convention and Exhibition Centre, which is close to the Legislative Council Complex. An example is the Hong Kong Electronics Fair, which is taking place in these few days. It represents the world's largest fair of the same kind and has attracted a large number of overseas exhibitors and buyers.

I would like to know if the Government has assessed the specific impacts of Occupy Central on major international commercial and trading activities held in Hong Kong, and what policies are in place to ensure that Hong Kong's status in global economy and trading, as well as the related economic activities in various sectors, would not be hard hit in the long run?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I attended the Hong Kong Electronics Fair and talked to some exhibitors yesterday. As I have observed, a large number of visitors have been attracted to the Fair. Nevertheless, it is not enough to judge solely by the visitor flow. I was told by some exhibitors that a lot of major foreign buyers did not show up, with about 30% of them not coming to Hong Kong this year.

I talked to a business operator surnamed CHONG in the electronics industry yesterday. He poured out his grievances to me and indicated his hope that the Occupy Central protestors would take the long-term economic prospects of Hong Kong into consideration. Colleagues in Invest Hong Kong have also relayed to me that some overseas companies make phone calls to enquire about the situation of Hong Kong. If the current condition is allowed to remain as it is for a long time, not only will the reputation of Hong Kong be affected, there will also be a loss in our job opportunities. Therefore, we will provide assistance in response to the needs of different sectors. Taking the Hong Kong Electronics Fair as an example, we will make appropriate efforts as far as possible together with various government departments such as the Transport Department to co-ordinate the services of The "Star" Ferry Company, Limited and the Mass Transit Railway Corporation so that service frequency during peak hours will be increased to facilitate the buyers and the exhibitors going to and leaving the Fair venue during the exhibition period.

To resolve the problem, it will be necessary for the Occupy Central protestors to realize that the movement has actually affected our economy and should come to an end as soon as possible.

MR CHAN HAK-KAN (in Cantonese): *President, as the illegal Occupy Central is underway, considerable manpower has to be deployed by the Police from different districts to station at the so-called "occupied areas". As roads are persistently occupied, the daily life of the public have been affected and there are increasing tensions between different groups of people, including supporters for and against Occupy Central, thus posing increasingly more pressure on police officers when they endeavour to maintain public order. As the Police have to constantly concentrate its manpower in the so-called "occupied areas", I wonder if there is adequate manpower to guard other districts.*

May I ask the Secretary to answer if the frequency of beat patrol duties and police manpower in areas under the management of the 18 District Councils are adequate to maintain routine law-enforcement functions? Meanwhile, is there a marked increase in the crime rates of other districts in Hong Kong?

SECRETARY FOR SECURITY (in Cantonese): Let me briefly answer the supplementary question put by Mr CHAN. Although the Police have to deploy manpower to maintain order in several districts where large-scale assemblies are taking place and handle other related issues, sufficient manpower can still be maintained to perform normal police duties in other districts. As to the question whether there is a sudden increase in crime rates, I do not have the exact figures at hand but it can be noticed from newspaper reports that no offending cases of a particularly large scale have been recorded.

As we can see, immediate action has been taken by the Police to deal with certain serious incidents in accordance with the established procedures and we can rest assured. Nevertheless, we all know very well that the Police Force and all its front-line officers have to work long hours every day at present. They are after all just human beings made of flesh and blood, and long hours of work have exerted immense pressure on both their body and mind. In this regard, if road occupants can take the initiative to end the movement and leave the scene peacefully of their own accord, I believe the society as a whole as well as the general public will be benefited.

MRS REGINA IP (in Cantonese): *President, I would like to put my question to the Secretary for Security. I believe anyone who has watched the television coverage of what happened in Lung Wo Road and Tim Wa Avenue last night must be very much shocked to see the chaotic situation there, since some people unbelievably acted in blatant violation of the law to put up obstacles on the roads again to cause wilfully a traffic blockage. The Police were at one time put in a very difficult position but finally managed to make up lost ground, thus restoring the unimpeded flow of traffic on Queensway today. I have received many words of appreciation for the excellent performance of the Police, giving "three cheers for the Police". Please convey such messages of appreciation to the Police.*

My supplementary question is: Since unimpeded traffic has finally been restored on Queensway, how about Mong Kok? When will order be resumed in Mong Kok for the convenience of the general public?

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Security, please reply.

SECRETARY FOR SECURITY (in Cantonese): Mong Kok is still a place of high risk, not only because the district is characterized by the presence of relatively narrow roads, but also due to the known fact that it is a place with high pedestrian flow, making the situation there particularly complicated. The Police will keep a close eye on the developments in the district and take necessary actions when appropriate to deal with the situation there.

MR LEE CHEUK-YAN (in Cantonese): *President, I would like to ask the Secretary what is the bottomline for the use of force by the Police. Does such a bottomline still exist? Oleoresin Capsicum foam (commonly known as "pepper spray") was used by the Police against demonstrators who had put up their hands. As the Secretary said in his reply just now, tear gas was used when protesters were equipped with such gear as goggles and face masks. When tear bombs had been fired and protesters were resolute to stay, the Police connived at the activities of triad members. Even extrajudicial punishment was imposed. Last night, after the protesters in Lung Wo Road had been dispersed, a demonstrator already under arrest, was being punched and kicked …*

PRESIDENT (in Cantonese): Mr LEE, please ask your supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *My supplementary question is: What bottomline is still maintained by the Government and the Police in the use of force? Whether a higher level of force will be used? Will it resort to rubber bullets and other types of weapons? Moreover, the Secretary has so far done nothing to duly handle the issue involving the torturing of a protester by "Dirty Cops" and I wonder if any actions will be taken to arrest and prosecute them. I have to ask the Secretary again if such actions will be taken instead of just transferring the officers concerned from their current posts …*

PRESIDENT (in Cantonese): Mr LEE, you have stated your supplementary question. Please sit down.

MR LEE CHEUK-YAN (in Cantonese): *… since the officers concerned may be instructed to beat up other protesters … transferring them from their current posts will be of no use. Will actions be taken to arrest and prosecute them?*

PRESIDENT (in Cantonese): Please sit down.

SECRETARY FOR SECURITY (in Cantonese): Due to time constraints, let me make a brief response to the questions put by the Member. The Police will never engage in collusion with triad members and have been doing their best to combat triad activities. This is the position that the Police will cling onto at all time.

Concerns have just now been expressed by a number of Members about the incident that took place when the Police were trying to reopen Lung Wo Road last night. I would like to reiterate that the Police will definitely conduct an impartial investigation into the case, and any illegal acts committed will be dealt with in accordance with the law.

MR LEE CHEUK-YAN (in Cantonese): *The Secretary has not answered my question. He only said that an impartial investigation will be conducted …*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *My supplementary question is: Given that the Secretary has just now indicated that an impartial investigation will be conducted into the case, and an impartial way to investigate into a case involving the beating up of a person is to take arrest action first …*

PRESIDENT (in Cantonese): Please do not make any comments, state your follow-up question.

MR LEE CHEUK-YAN (in Cantonese): *My question is: How can an impartial investigation be conducted if the officers concerned have not been arrested? The Secretary has not answered my question on whether actions will be taken to arrest the officers concerned.*

SECRETARY FOR SECURITY (in Cantonese): There are established procedures which the Police consider appropriate for handling cases like this and the case in question will be dealt with in accordance with the established procedures.

MR RONNY TONG (in Cantonese): *President, I would like to ask the Secretary if the video recordings of the process shot by the television crew during which police officers were seen pressing on the ground someone under arrest with no ability to resist and beating him up savagely, can the video recordings be deemed as prima facie evidence of a criminal act? If so, does the Secretary also agree that in the presence of prima facie evidence of a criminal act, the investigation to be conducted by the Independent Police Complaints Council would be subjected to a lot of limitations and therefore criminal investigation should be launched by the Police immediately?*

SECRETARY FOR SECURITY (in Cantonese): I have once said and would like to reiterate that investigation by the Police into the case has already commenced and let me provide Members with some information in this regard. According to the police complaints system of the Complaints Against Police Office (CAPO), criminal investigation can be carried out by CAPO. If my memory serves me right, for complaint cases received in the past, corresponding actions have been taken by the Police in accordance with their procedures when the complainees were found to have involved in criminal offences. As we all know, different aspects of work, including the collection of evidence, would be involved in handling cases like this and the Police is now working on it. I hope that we trust and accept the system since this is the mechanism in place to handle cases like this and those of other categories. The system should be adopted as the basis for handling the case and the Police will definitely act justly.

MR RONNY TONG (in Cantonese): *President, a simple answer for a simple question.*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR RONNY TONG (in Cantonese): *President, I would like to put a simple question: Does the Secretary agree that video recordings can be accepted as prima facie evidence of a criminal act? If so, does he also agree that criminal investigation should now be launched? President, the Secretary is only required to answer if he agrees or not.*

SECRETARY FOR SECURITY (in Cantonese): The Police is responsible for investigating into the case and I believe a professional judgment will be made in this regard. As for the possible criminal elements involved, it is also believed that due consideration will be given by the Police.

MR DENNIS KWOK (in Cantonese): *President, I visited Mr Ken TSANG in the police station in Wong Chuk Hang this morning in my capacity as a Senior Counsel. Mr TSANG would like to put a question to the Secretary through me: What has he done to deserve the battering by six or even seven police officers?*

He would like to put this question to the Secretary through me, especially so when the Secretary has indicated in his reply to the question raised by Mr Frederick FUNG that the Hong Kong Police Force was a highly professional and outstanding disciplined force, which would act in accordance with the law under all circumstances. I will go to visit Mr Ken TSANG in the hospital later in the afternoon and I wonder what message the Secretary wants to convey to Mr TSANG through me.

SECRETARY FOR SECURITY (in Cantonese): The Police will investigate into the whole case in a fair and impartial manner.

(Members booed in their seats)

PRESIDENT (in Cantonese): Will Members please remain silent.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, Secretary, it has been more than half a month since the beginning of Occupy Central. I believe the Police have been performing their duties with restraint and professionalism during the Occupy Central movement but members of the public have also relayed to me that the Police have the responsibility of handling the traffic blockage on major trunk roads, maintaining public order and reopening trunk roads for the public. However, up till today, the situations in Tim Mei Avenue and Mong Kok remain the same.*

I would like to ask the Secretary if he can tell us when the Government and the Police will be able to resume normal order for the public.

SECRETARY FOR SECURITY (in Cantonese): As we can see, the Police have been doing their best over the last few days to reopen various trunk roads. Apart from reopening first the major roads in front of the Mandarin Oriental Hotel, some roads being obstructed before have also been reopened for vehicular traffic in Mong Kok. We have also managed to restore unimpeded traffic on the west-bound section of Yee Wo Street in Causeway Bay and vehicular traffic on Queensway has also resumed normal yesterday. Nevertheless, Lung Wo Road, a road which we have used for traffic diversion for a number of days was

suddenly blocked by some road occupants last night and immediate action was taken by the Police to reopen the road. Some major trunk roads are still closed at present. They include Harcourt Road, Nathan Road in Mong Kok and some of its branch roads in the vicinity. Appropriate measures will be taken by the Police when appropriate so that road traffic will resume normal as soon as possible.

MR FRANKIE YICK (in Cantonese): *President, I would like to put my supplementary question to the Secretary for Security.*

Over the past two weeks, participants of illegal assemblies have occupied a few major trunk roads, thus causing massive disruption to road traffic and the transport sector is the first to suffer, with the means of living of drivers in the frontline worst affected. Some friends of mine in the sector have asked me to ask the Bureau here: Why did the Police not rush forward to disperse the participants of the illegal assembly on the evening of 28 September after tear gas had been fired, thereby preventing them from occupying major trunk roads and affecting people's livelihood, but retreated to guard their original cordon line instead? What is even more puzzling is that from the numerous updates available on the Internet afterwards, it has come to our knowledge that a large number of participants of the illegal assembly were charging the police cordon line persistently in a planned and systematic manner. Those in the sector which I represent have asked me to raise the question: Why did the Police make such a decision at that moment?

SECRETARY FOR SECURITY (in Cantonese): There was a large number of people gathering at the scene on 28 September and violent charging was staged at the police cordon line. In order to maintain an appropriate distance with the protesters, thereby minimizing physical contacts between two parties and avoiding injuries to people on both sides, measures were taken by the Police to use tear gas so that a distance with the protesters could be maintained.

Subsequently, crowds continued to gather in various locations and at different time. As such, we had to consider the incident as a whole as well as its continuity. The most important factor considered for the police operation that evening was to keep a distance with the crowds. However, as we could see, after the crowds at a specific point of assembly were dispersed, people would

very soon assembled again in another location. That was the reason why the Police adhered to the objective of maintaining a distance with the crowds and did not try to open up the roads blocked as suggested by Mr YICK. The first and foremost task of the Police then was to keep both sides at a distance to avoid any close contacts lest the charging would lead to unnecessary physical scuffles and injuries.

As I have mentioned just now, members of the public and police officers were injured for different reasons in the past 10-odd days but fortunately, the injuries sustained are not very serious and this can be attributed to the utmost restraint exercised by the Police.

MR CHUNG KWOK-PAN (in Cantonese): *President, Occupy Central has definitely affected various aspects of our daily life: clothing, food, housing and transportation alike. In particular, traffic blockages to roads have widespread impacts on the transport sector such as taxi, minibus and coach services operators, which in turn have brought about other implications such as delay in delivery services to small and medium enterprises, retailers and catering services operators. As far as public transport services are concerned, inconvenience has been caused to elderly persons going out for medical consultation and school children arrive at school late though they have already got up early. As mentioned by the Secretary for Security just now, some obstacles have been removed recently to restore unimpeded traffic on part of the roads but I would like to ask how the problem of traffic congestion can be further relieved given that the Occupy Central protesters have refused to leave and kept on occupying the roads.*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Security, please reply.

SECRETARY FOR SECURITY (in Cantonese): The Police will make the best endeavour to clear all obstacles blocking the roads. Efforts made by the Police in the past few days have already brought about some initial effects but it would be more important for road occupants to realize that their appeals have been made known to the public for everyone to understand very clearly. The nuisance and inconvenience caused to most Hong Kong people as a result of the occupying

action still exist and as mentioned earlier by Mr CHUNG, elderly persons have been deprived of public transport services when they have to go out for medical consultation. For example, tram services at present can still only be provided at split sections.

I now urge road occupants to pack up and leave as soon as possible. Two days ago, the Government suggested that participants of the movement could hold assemblies in three locations, namely the Tamar Park, the Central Lawn in Victoria Park and the MacPherson Playground in Mong Kok. If they choose to have the assemblies in those places instead of disrupting traffic on major trunk roads, the daily life of the public will resume normal expeditiously. The Police will of course continue with their actions to clear obstacles on the roads when appropriate so as to restore unimpeded traffic as far as possible.

MR ALBERT HO (in Cantonese): *President, I think it has become very clear to members of the public that in handling public assemblies and demonstrations which lasted for so many days and of such a large scale, the Police have been pushed into a very tight corner. It is most regrettable that right from the beginning, in handling the movement as a whole, members of the public have been given the impression that in handling the entire incident, the Police have applied unnecessary and disproportionate forces, including the use of tear bombs, to disperse people who participate in peaceful demonstrations. Amid the demonstrations, a number of suspected triad members or even persons identified with triad background have been seen threatening protesters or meddling in their activities in the demonstration areas in Mong Kok, but it seems that the Police have failed to duly and timely interfere to maintain order. Worse still, in the incident happened last night, some police officers, having lost control of their emotions, resorted to not merely force but violence to cause severe bodily harm to protesters who had been trussed up and had no ability to resist. Therefore …*

PRESIDENT (in Cantonese): Please state your supplementary question.

MR ALBERT HO (in Cantonese): *President, people are now very much worried that a higher level of force will be used by the Police in future operations and they wonder what kind of weapons will be employed. Will the Police resort to such weapons as rubber bullets, acoustic cannon, water cannon, baton, and so*

on, in their future operations? Under what circumstances will such weapons be used? The core question I would like to present is, a lot of and in fact an overwhelming majority of people participating in the sit-in protest in the demonstration areas will keep calm and remain absolutely peaceful even in the face of a clearance operation by the Police …

PRESIDENT (in Cantonese): Mr HO, you have to ask your supplementary question.

MR ALBERT HO (in Cantonese): *I would like to ask if an undertaking can be made to guarantee that should the people in the demonstration areas remain peaceful when they come face to face with the Police, there would absolutely be no use of force or unnecessary force?*

SECRETARY FOR SECURITY (in Cantonese): Maintain public order is the duty of the Police and since the day when Occupy Central first began and up till today, we have repeatedly urged protesters to leave peacefully. The reason for using pepper spray and tear gas on 28 September was that the charging at the police cordon line by a lot of people in an orderly and organized manner alerted the Police of the possibility of injuries to a lot of people should the cordon line be broken, and tear gas was therefore used in the light of the situation.

People at the scene will definitely be clearly notified of any clearance operation to be carried out by the Police and they will be repeatedly urged to leave. As for the necessary force to be used by the Police, it will be exercised proportionately as required. Therefore, I hereby urge protesters occupying roads once again to pack their things up and leave peacefully and orderly, or move to express their views in the Tamar Park, the Lawn in Victoria Park or the MacPherson Playground in Mong Kok so that the daily lives of the general public will resume to normal as early as possible and unimpeded traffic will be restored.

It is very important to restore unimpeded traffic, not only for vehicular access but also for the convenience of the general public, since their daily lives will be severely affected if they are deprived on a long term basis of the use of their private vehicles or various modes of public transport.

As we all know, since the outbreak of the Occupy Central movement, some people who are against the movement have come forward to express their views. Disputes are bound to arise when people holding dissenting views gather at the same place and the situation will become complicated and difficult to handle when conflicts arise. Such being the case, I once again urge road occupants to leave quietly and peacefully. If they want to continue with their assemblies, three alternative places in close vicinity of their current assembly points have been provided by the Government and the relevant government departments will try their best to meet the needs of the protesters so that they can have their views expressed.

MR ALBERT HO (in Cantonese): *I am not asking the Secretary to make an appeal to the protesters.*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR ALBERT HO (in Cantonese): *My supplementary question is: Can the Secretary guarantee that unnecessary and disproportionate violence will not be used against peaceful protesters in the future, especially those in the plaza?*

SECRETARY FOR SECURITY (in Cantonese): Actions to be taken by the Police are responsive in nature and the ways to handle cases happening on the scene are to be determined having regard to the actual situation at that moment.

MR NG LEUNG-SING (in Cantonese): *President, first of all, on behalf of a group of people who have maintained close contact with me, I would like to thank the Police for being basically very lenient and accommodating in handling large-scale assemblies held this time. However, some people are also worried that if the present situation is getting more complicated as witnessed by the confrontations yesterday, which are not really free from charging, nor peaceful and rational as alleged by some Members, how guarantee can be expected from the Government and the Police. If a charging is launched, I really do not see how a guarantee as suggested by some Members can logically be made. It is*

then the worry of some people that this would be tantamount to conniving at the behaviour, which is far from desirable though it would be alright for being lenient and accommodating.

My supplementary question is about the reply given by the Government to Urgent Question No.1, which is that "protesters have on a number of occasions, deliberately charged the cordon line and seized the mills barriers in an organized manner; and they assaulted police officers with umbrellas and water bottles." This is exactly what happened that day and although God is constantly watching what we do, quite a number of Members have still unbelievably insisted in this Chamber that the movement is peaceful, rational and free of violence. I wonder if exclusive video teams should be set up by the Government to conduct in-situ video recording at scenes neither covered by other video teams nor broadcasted by commercial or private broadcasting stations so that there would be a chance of showing video recordings of such scenes to members of the public through a reasonable channel or on some broadcasting stations. This will enable the public to have a fair understanding of what has actually happened, thus avoiding any one-sided allegations against the Police as in the present case of the use of excessive violence or force. Is this a better way for the public to have a good grasp of the truth so that they will realize that while the protesters are calm and rational on the one hand, they have also been seen roughing up and charging at the Police on the other? This is the question I would like to put to the Government.

SECRETARY FOR SECURITY (in Cantonese): My thanks to Mr NG for his suggestion. The Police do have a video team and its main duty is to conduct video recording of the proceedings of certain events for evidential purposes in any criminal investigations to be carried out in future, or for study and reference purposes in operational deployments after the whole operation has concluded.

A large number of video clips have actually been uploaded onto various media websites on the Internet, showing to the public from numerous perspectives the scenes of different incidents. If any one or any Members would like to have sight of the many different clips before making their own judgment, I am confident that they would have no difficulty locating such records. Apart from the video teams from different media organizations and television companies, anyone who keeps track of what happened on the scene would realize

that a lot of people, other than the protesters who charged at the Police, are often found holding such equipments as video cameras or smartphones high up in the air to make video records of the prevailing situation, and numerous video clips of this sort have been uploaded onto various websites and can be found in different media.

Therefore, it is my opinion and hope that in commenting on the issue, all members of the public or Members should try to judge the case in an objective manner and form their own opinion without giving too much weight to any single point.

MR IP KWOK-HIM (in Cantonese): *President, any unlawful acts of violence should be condemned. It can be witnessed that in the last 10-odd days, the Police have been handling all sorts of provocations with professionalism and restraints but during the process, physical clashes are unavoidable. I was watching live coverage of the incident last night and protesters with umbrellas were found trying to assault police officers but according to the narrator, the attitude of such protesters became friendly once they had been reminded that filming was underway. Therefore, it is not always the case that people putting their hands up are really trying to express their views peacefully.*

Nevertheless, scenes have also been captured in today's video footage of media organizations showing that illegal and inappropriate violence was used by police officers while performing their duties. It is my opinion that a thorough investigation has to be conducted into the case and the Secretary has also indicated the Government's intention to do so. I do not think we wish to have the reputation of the Police Force undermined by the misconduct of individual police officers.

In putting my supplementary question, I hope the Secretary would tell me how the Police will handle voluntary action taken to clear the occupied areas, given that a number of organizations or individuals affected by the illegal Occupy Central movement have recently indicated their wish to do so since their means of living have been seriously hampered. In particular, will the Police be prejudiced when taking law-enforcement actions to stop people from clearing on their own the illegal structures and obstacles put up by protesters?

SECRETARY FOR SECURITY (in Cantonese): My thanks to Mr IP for his question and please allow me to say a few words first. As pointed out by the Police at the press meeting today, four police officers were injured in the incident that happened on Lung Wo Road last night. One of them tumbled and had his right shoulder joint dislocated while some other police officers got their canthus injured by umbrellas, which is a fact.

With regard to the point raised by Mr IP about actions taken by members of the public in response to Occupy Central on a voluntary basis to clear obstacles put up on roads, this is something that the Police absolutely do not wish to see and it has also been made very clear that no one should try to clear the occupied areas on their own. What is the reason for that? When supporters of both sides gather together at the scene, conflicts will arise and will in turn lead to scuffles or even bloodshed, something which the Police definitely do not wish to see. It is the duty of the Police to handle all cases impartially and for any illegal acts committed, no matter by supporters for or against Occupy Central, actions have to be taken by the Police to deal with the cases. I urge that such illegal acts should never be committed. The Police will make their best endeavours to clear all obstacles on the roads when appropriate so that road traffic will resume normal as early as possible.

In the past few days, quite a number of community leaders, including District Councils members, representatives of schools and various organizations, visited the occupied areas in person to ask the road occupiers to leave and stop obstructing the roads. Most unfortunately, such earnest and well-intended attempts failed to achieve any specific results. Meanwhile, actions have been taken by the Police to clear obstacles on a few major trunk roads and reopen them for vehicular access. Such actions will be persistently taken until unimpeded traffic has been restored on all roads in Hong Kong. Therefore, I hereby appeal to the general public once again that no action should be taken on their own to clear the obstacles on roads and the job should instead be left to the Police.

MR POON SIU-PING (in Cantonese): *The Occupy Central organizers have originally proposed to occupy Central with love and peace but other areas such as Admiralty, Causeway Bay and Mong Kok are now occupied instead, bringing conflicts and injuries to the public while love and peace have vanished into thin air. Occupy Central has affected the lives of the general public as well as the means of living of wage earners. Employees in the transport sector have*

expressed to me their concerns about Occupy Central, which has been going on for more than two weeks and there are worries that roads would be blocked persistently and thus affecting their means of living. I understand that the Secretary indicated just now that appropriate measures would be taken to handle the situation when appropriate and I would like to ask the Secretary what specific measures and law-enforcement timetable are in place to reopen all roads occupied so that the work and life of wage earners will resume to normal?

SECRETARY FOR SECURITY (in Cantonese): It is the Government's objective to reopen the occupied roads as soon as possible so that the life of all Hong Kong people, including wage earners as mentioned by Mr POON, will resume normal. To this end, some efforts have already been and will persistently be made. In order to have the problem resolved as soon as possible, road occupiers are hereby urged once again to leave the occupied areas since the views they want to express have already been heard by all of us in society. Please do not obstruct police officers from performing their duties of clearing obstacles on the roads and let them finish the job smoothly.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

Obstacles put up in Central, Admiralty and Causeway Bay are being cleared by the Police in these two days for normal traffic to be resumed on the affected roads. This is an ongoing operation and as mentioned by Mr POON, it has to be conducted until unimpeded traffic is restored on all roads blocked. Therefore, we hereby urge once again that first of all, road occupiers should leave as early as possible; and secondly, they should co-operate with the Police when clearance operations are being carried out for resuming vehicular traffic. The road occupiers should refrain from obstructing police officers from performing their duties.

MR CHAN KIN-POR (in Cantonese): *I believe the Police's action to clear obstacles put up illegally and recover Lung Wo Road yesterday has won the support of an overwhelming majority of Hong Kong people but regrettably, the efforts have been offset by the video footage released today in which police officers were seen beating up a protester. This is an individual case and we*

support the Police to investigate into the incident in accordance with the law. It is hoped that Members and the mass media would avoid smearing the Police Force with just one single case since this would be very unfair to the Force. Although most of the young people and students participating in the movement are very peaceful, radical protesters have unfortunately wormed their ways into the crowds to wait for a chance to commit illegal and unlawful acts …

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, what is your supplementary question?

MR CHAN KIN-POR (in Cantonese): *This is the background I should present first and I will try to speed up. The Police has been taking an attitude of forbearance, thus posing great difficulties to police officers performing front-line duties, and worse still, police officers have been subjected to long hours of work, immense pressure and verbal abuses from some members of the public. Given that police officers have been put under all sorts of pressure and have to endure the frustration brought about by the inability to execute law-enforcement duties, as a person who has in Hong Kong everything I personally hold dear, I would regard the low morale of our police officers the most horrible nightmare for Hong Kong people. I would like to ask how the morale of police officers can be maintained when they are faced with so many difficulties. How can the pressure of front-line police officers be relieved?*

SECRETARY FOR SECURITY (in Cantonese): The police management is also concerned about the problem. The operations being conducted this time are difficult, complicated, and unprecedented. The Government fully understands and is aware of the feelings and concerns of front-line police officers, while the police management has tried to explain to various staff associations their operational decisions and difficulties as well as the ways to conduct such operations. It must be emphasized that it is the duty of the Police Force to maintain law and order and safeguard the safety of the public, and no matter how difficult the task is, I am totally confident that everyone in the Force will be committed to fulfilling the mission. The work of police officers requires support from various sectors of the community and members of the public. In the present case, police officers have been subjected to unreasonable verbal abuses, personal attack, humiliating and offensive language and violent acts by a lot of

protesters and these must have to a certain extent adversely affected the morale of police officers. Nevertheless, I believe all officers in the Police Force will stay committed to serving the public dutifully and hold fast to their posts to perform their duties in an undaunted manner. The Police Force's clinical psychologists will also do their best to offer assistance to colleagues in need of psychological counselling. Most important of all, the SAR Government renders full support to the Police in the execution of their duties in accordance with the law. It is also hoped that all Members and various sectors of the community would support, recognize and understand the duties of the Police and assist them in handling the issue under discussion. Messages of consolation have recently been sent to the Police from various sectors of the community and these have also been very encouraging.

MR CHAN KIN-POR (in Cantonese): *Deputy President, I would like the Secretary to relay to the Police that most Hong Kong people would give the Police full support for performing law-enforcement duties in accordance with the law.*

DEPUTY PRESIDENT (in Cantonese): This is not a part of your supplementary question.

MR CHAN KAM-LAM (in Cantonese): *Deputy President, from the wide coverage of the mass media, we can see that since the illegal Occupy Central in late September, there have been cases where protesters use umbrellas to poke or attack police officers, causing injuries to the latter. Those protesters even throw objects towards the police officers. This morning, we saw an incident on the television. Some protesters sprayed some liquid towards the police officers on duty. We notice that such situations seem to be getting worse. Recently, we also saw that some protesters set up a scaffolding on the road. There was also a sense of anger and violence. These situations can be very serious and are detrimental to our social order. As we notice, a large number of police officers are deployed mainly to deal with these situations and incidents. The public may be concerned whether our Police Force will be affected in case other problems with public security may happen. I would like to ask the Secretary a question. When he answered a question earlier on, he appealed many times to the attendants of illegal assemblies to disperse voluntarily and peacefully.*

However, if they are unwilling to disperse and their impact on the community drags on, what should we do? To the general public, their daily life cannot be restored. The business of some business operators is being affected, and some workers are being affected as well. In regard to such situations, what should we do? Does the Secretary have any effective strategy to solve this problem in the short term? In the community, many voices indicate that the level of tolerance is limited.

SECRETARY FOR SECURITY (in Cantonese): Till now, the illegal Occupy Central action — if I recall correctly — has already come to its 18th day. People see very clearly the impact of this incident on the Hong Kong society. If the situation goes on, the impact on the entire society will not restrict to people's livelihood only; problems in many aspects, including our economy, are getting more apparent. As Secretary Gregory SO mentioned just now, concerning our exhibition sector, many overseas buyers inquire whether they should continue to come to Hong Kong to carry out various commercial and trading activities. The public in the entire territory very much hope that Occupy Central can come to an end as soon as possible. At the beginning, the Occupy Central organizers indicated that they would only occupy Central. They said that if the action caused traffic congestion and when the Police came to the scene, they would leave. They even said that if the situation became chaotic, they would put a stop to the movement. However, it is very unfortunate that the development of movement as at today seems to have deviated from their original expectation.

The Police will do their best to maintain social order. Our first and foremost duty, which is being undertaken, is to remove the obstacles so that the traffic can be restored. If the Police take further action at the appropriate moment, the Police will give appropriate advice to the people on the scene and ask them to leave. I very much hope that the road occupiers can calm down, sit down and think that Hong Kong is our home. We have sufficient channels to express our views. Should we continue to occupy the roads so as to affect our home and people's life?

The Police will do their best, make utmost efforts and use the most proper means to deal with this incident. Nevertheless, Hong Kong people's support and co-operation are very important too. I very much hope that the general public can understand the police officers' hard work and the objective of their efforts. The police officers are not corruptive as some people said. Neither are they

conspiring with certain people for some purposes. The Police have only one objective, and that is to maintain law and order in society. In order to maintain law and order in society, we also need the general public's co-operation and support. As long as we have the co-operation and support of the general public, we will be able to maintain social stability. We are always proud of Hong Kong as a lawful society. I believe that unlawful acts are never recognized by the general public. I very much hope that the Occupy Central protesters can sit down and think. It is time for you to leave the scene.

MR YIU SI-WING (in Cantonese): *Deputy President, Occupy Central has already dragged on for nearly 20 days to date. During this period, many public and commercial activities, including the National Day Fireworks Display and the Hong Kong Wine & Dine Festival, have to be cancelled or adjusted. As a result, the international image of Hong Kong has been tarnished and the income of the tourist industry has also been affected.*

I would like to ask the Secretary for Commerce and Economic Development about the number of international activities which have recently been affected by Occupy Central. Besides, have the authorities put in place any remedial measures to minimize the loss of the tourist industry?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, destruction is easy while remedy is difficult. The destruction made during a day may need remedy of months and even years. Hong Kong is a tourist destination. We have good reputation and business environment. However, Occupy Central is indeed harmful to Hong Kong's reputation. What we have to do is to prevent as far as possible such short-term destruction from turning into medium or long-term destruction. In the development of tourism, time and many other associate facilities are needed, including the organization of various mega events.

As Mr YIU just said, due to Occupy Central, the venue for organizing the Hong Kong Wine & Dine Festival has to be changed from the new promenade in Central to the Kai Tak Runway. At present, we also know that some companies have withdrawn from the event. However, we will put in place some remedial measures as far as possible in order to attract more visitors and companies to participate in this activity at Kai Tak.

In the long run, Deputy President, we are actually planning many other mega events, all of which need proper arrangements. We cannot simply forge ahead this week for such events to take place next week. This is not possible as we need to have detailed planning. When a lot of overseas visitors come to Hong Kong, they need a long time for preparation. Therefore, the best way is to end such destructive actions as occupying Central as soon as possible. Then, we can make medium or long-term planning in respect of tourist facilities and supporting measures.

MR ALAN LEONG (in Cantonese): *Deputy President, who is responsible for the 87 tear gas canisters used on 28 September? It has now become an intricate case without a clue.*

Deputy President, you may have heard about this. The Chief Secretary for Administration, Mrs Carrie LAM, said that she was not involved. But at the same time, she indicated that Mr LEUNG Chun-ying was aware of this case. It is even reported that Mr LEUNG Chun-ying's think-tank does not include the Secretary. Instead, Mr John LEE, the Under Secretary, is included.

I would like to ask what process has to be gone through before it is decided that tear gas is to be used? The Chief Executive, Mr LEUNG Chun-ying said that in putting an end to the use of tear gas, he had considered the overall situation. However, the use of tear gas was decided by the front-line commanders. There are various versions indeed. I would like to ask the think-tank of Mr LEUNG Chun-ying — I do not know whether the Secretary or the Under Secretary — would answer the question raised by me as a Legislative Council Member. Before the use of tear gas, what decision-making process has to be gone through? Who are involved in such a process?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, the Police have to observe very stringent guidelines on the use of force. When using tear gas, the field commanders has to decide on the use of force after making professional assessment and judgment in accordance with the actual situations and the necessity of actions at that time. Hence, there is no question of consulting the supervisors on the use of force. The upper echelon of the Government, including the Chief Executive, closely monitored the situation and the development of the entire incident.

If Members are aware, there is a coverage on the *South China Morning Post* regarding the use of tear gas on that day. Members may refer to it.

MR WONG KWOK-KIN (in Cantonese): *Deputy President, since too many Members raise supplementary questions, I do not know whether my supplementary question has already been asked by other Member. I am sorry, but I still have to continue to ask. My question is also related to tear gas.*

I see that in the reply, the Secretary pointed out that tear gas canisters are one of the regular items of equipment for tackling charging by crowds. This is what the Secretary said. However, some mass media, protesters and people from the opposition camp describe tear gas canisters as similar to grenades. They think that it is a very serious matter. Is that really serious? I believe that we need to see the consequences.

Therefore, I would like to ask the Secretary: On 28 September, that is after the tear gas canisters have been used, how many people were injured? Do the authorities have such figures? Among the casualties, how many of the injuries were inflicted by tear gas canisters? What were the levels of the injuries? Up till now, are there still people suffering from the after-effects of tear gas?

SECRETARY FOR SECURITY (in Cantonese): Generally speaking, tear gas will only cause temporary discomfort and will not bring about permanent body harm. In considering the use of force, the Police take tear gas and Oleoresin Capsicum (OC) foam as a means to stop people from charging and make them disperse by triggering temporary discomfort to them. The tear gas used by the Hong Kong Police is by no means different from the tear gas used by the Police in other places of the globe. Our tear gas is also purchased from the supplier. It is a substance which can trigger tears. People who inhale tear gas will have a temporary sense of burnt. It will also cause coughing and tears and is thus known as tear gas. It has lachrymatory function and may thus be deeply known by the public. Tear gas can reduce the power of movement of the inhaler. Generally speaking, such discomfort only lasts for a short period of time, for only about a few minutes.

In regard to the substantive figures on whether there are protesters still under treatment after inhaling tear gas, I do not have such figures on hand. However, I am very sure of one thing. On 28 September and 29 September, the

levels of injury of those who needed to be taken to hospital for treatment were not serious. I only have two figures. On 28 September after tear gas was used by the Police, 24 people were injured. On 29 September, 10 people were injured. From these figures, we can see that although there were thousands of protesters in the rally, after tear gas was used by the Police, only 20 odd or 10-odd people were injured. To a certain extent, this can reflect the effectiveness of tear gas.

MR MARTIN LIAO (in Cantonese): *Deputy President, Occupy Central has already dragged on for half a month. Its impact on the Hong Kong economy has gradually surfaced. Some CEOs from the banking and commercial sectors relayed to me that following certain coverage by overseas media, Occupy Central would certainly impact on the desire of overseas investors coming to Hong Kong. They will no longer consider Hong Kong as the base of their business. The credit rating of Hong Kong may also be lowered. I believe that it will take a few years for international confidence to restore. A lawyer also complained to me that his client had shelved his plan to come to Hong Kong to negotiate on a business transaction due to safety reason, and it was very likely that the transaction would be lost. At present, the room occupancy rate of our business hotel, Hong Kong Mandarin Oriental Hotel, should reach its climax. However, it is heard that the room occupancy rate is only 50%.*

Although the Government is strongly promoting the edges of Hong Kong recently, various examples show that the confidence of overseas investors in Hong Kong has started to waver. If Occupy Central persists, the confidence of international society in Hong Kong will waver further in the long run. Our business environment and the entire economy will be affected. In this connection, I would like to ask Secretary Gregory SO what measures the Government has in mind for Hong Kong's reputation and international confidence to resume.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, just now I have mentioned that destruction is easy while remedy is difficult. It also depends on the kind of remedial measures for what has been damaged. In this regard, actually colleagues from the Hong Kong Economic and Trade Office, together with Invest Hong Kong and the Hong Kong Trade Development Council, will tell our overseas economic and trading partners that the business environment in Hong Kong is still good. However, when they

watch the scenes on television about Occupy Central or the clashes, their intention to invest in Hong Kong will surely be affected. In this regard, I in fact have mentioned from time to time that in order to solve this problem, participants of Occupy Central should end their action as soon as possible, so that the business environment in Hong Kong can be back to normal, while investors will still have confidence in our business environment in the medium and long term.

In this connection, I just mentioned that we have various measures. They include financial assistance to local small and medium enterprises. For the activities in the Hong Kong Convention and Exhibition Centre, in view of traffic inconvenience, we will provide measures to facilitate overseas buyers and participating companies. We will try to reduce the impact of Occupy Central on them. We cannot forecast at this moment what other aspects will be affected by Occupy Central. We have to react correspondingly in the light of the severity of the movement so as to reduce the loss.

DEPUTY PRESIDENT (in Cantonese): Is Mr WU Chi-wai present?

MR WU CHI-WAI (in Cantonese): *I am present.*

DEPUTY PRESIDENT (in Cantonese): Can you slightly move aside the cardboard? I cannot see you.

(Member move away the cardboard)

MR WU CHI-WAI (in Cantonese): *All right. I can see you now. Deputy President, you can see me now.*

I am sorry, Deputy President. Occupy Central originates from the Decision of the Standing Committee of National People's Congress on 31 August, which has set three doors for screening out a genuine universal suffrage. As a result, discussion on political reform has come to a dead end. We should resolve political controversy by political means. However, the Chief Executive, who is responsible of dealing with political work, avoids the problem and has become "video-taped Chief Executive". The Chief Secretary for Administration

has become an outsider. Government officials have to receive instructions from the Beijing authorities, and the Police Force has become a tool for political suppression. The Police have used tear bombs and have given the public an impression of injustice in law-enforcement. They turned a blind eye to the anti-Occupy Central groups when they charge towards the mass in peaceful protest. Last night, some police officers imposed extrajudicial punishment in front of all Hong Kong people by beating a protester who was already subdued.

I would like to ask the Police Force whether it has noticed some negative sentiments, or even hatred, among police officers due to these situations? Does the Police Force has any measures to patch up the relationship between police officers and the public, so that the Police Force can have effective law-enforcement in the community?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, in the course of dealing with this incident, police negotiators have been deployed to communicate with the occupiers for many times. It is hoped that the occupiers can give way so as to reduce the vexation, inconvenience and loss accrued to the general public affected by traffic congestion. The Police has already put in a lot of efforts. People can see on television that during the early stage of the movement, we have already sent police negotiators to deal with this incident. It is, however, very unfortunate that up till now, we are still unable to make achievement to this end. Occupying Central and road blockage are illegal, which is very clear to us all. People can also see the price that the entire society has to pay for this. It is time to ask them to leave the scene. Honourable Members, if you can join in to persuade them, it will be much better.

I still remember that many opinion leaders and respectful people have made their appeal respectively at different points of time. Nonetheless, Harcourt Road is still being occupied by the Occupy Central protesters. Unlike what Mr WU said, police officers have not suppressed the citizens. Police officers have to stand fast to their line of defence and avoid charging by protesters. Why should they do that? I have already mentioned many times and I believe you have also heard a lot about it. I do not want to repeat here. Police officers did not turn a blind eye to the anti-occupiers. However, I hope that you can consider in other people's position. For the general public affected by Occupy Central, how will they feel?

Yesterday, I saw from the news report that a man over 90 years old knelt on the ground and asked the protesters to leave, but to no avail. Different people in society sincerely talked to the occupiers, but to no avail either. Let him who tied the bell on the tiger take it off. The best way is to retreat orderly. I hope to say to those who are still staying at Harcourt Road at this moment: Could you please think about it.

MS STARRY LEE (in Cantonese): *Deputy President, last night, a large group of protesters suddenly rushed onto Lung Wo Road and occupied the trunk roads illegally with force. People who were watching live television broadcast would feel that although the protesters had their hands raised high, they were pressing forward steadily. From some television shots, we saw that the Police were facing very strong pressure. We also saw that the Police were very restrained. Members of the public praised the Police for reopening Lung Wo Road within a short span of time. Here I would like to ask the public and Honourable Members not to write off the Police's efforts in this aspect because of individual incidents.*

Deputy President, since the commencement of Occupy Central, the highest price that the community has to pay is social split. Members of a family may dispute fiercely over the topic Occupy Central. Some friends "unfriend" each other. There are clashes of different scales between occupiers and anti-occupiers at different levels. Some police officers are subjected to verbal abuse unreasonably and are in low spirits. Those minor commercial tenants being affected do not know when they can be free from the influence. Some parents are unable to send their children to school as the roads are being occupied. At different aspects and levels, many people suffer from anxiety and are emotionally overwrought. I guess that they are already suffering from Occupy Central syndrome. I would like to ask the Home Affairs Bureau or other bureaux whether there are any arrangements to support a large number of people who may have contracted the Occupy Central syndrome?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, in these days, not only the three districts being occupied are affected, we have actually received various views from people among all 18 districts in Hong Kong expressing serious concern about the current situation in Hong Kong. District Officers in various districts and even the Home Affairs Department will play a

co-ordinating role for various parties to understand and accommodate each other. They will persuade those who occupy the roads in these areas to leave as soon as possible, to observe public order and to co-operate with the Police in the law-enforcement actions.

MS EMILY LAU (in Cantonese): *Deputy President, during this democratic movement which is unfolded on a magnificent scale, students, the Trio, people from our democratic camp and people from various fields in society also participate. Not only has it gained many people's active support in society, it has also attracted much attention from the international community. Deputy President, one of the reasons for this is actually attributed to the Police. Last time, they used tear bombs. And this time, a protester was beaten up by some corruptive police officers. All these have been covered by CNN and many international media. The way of handling by the authorities have indeed affected Hong Kong's reputation.*

The Secretary just asked the people to retreat. He also said that some respectful persons had come out to express their views. Deputy President, I hope that these respectful persons would, apart from airing their views for the safety of students, also give some fair comments. That is, do they recognize the authorities' way of handling and the actions taken? Deputy President, we are also very concerned about the safety of the public. Secretary, you also heard that they wanted to have communication and dialogue with you, and to express their aspiration for a democratic political system. If the authorities turn a deaf ear to it, then do not invite these respectful persons to come out and express their views anymore. If they talk any further, the respect that they earn will be gone, as they are not giving fair comments. Why are the authorities unwilling to have a dialogue with students and other parties …

DEPUTY PRESIDENT (in Cantonese): Ms LAU, what is your supplementary question?

MS EMILY LAU (in Cantonese): … *in order to solve this crisis?*

DEPUTY PRESIDENT (in Cantonese): Which Secretary is going to answer? Secretary for Security, please answer.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I believe Members can still remember that during the 10-odd days of Occupy Central, the Hong Kong Federation of Students requested to have a dialogue. The Government immediately responded that night. After the Government responded, it also held some preparatory meetings. When the Government subsequently indicated that the dialogue would be temporarily shelved, it spelt out the reasons.

I hope that the people concerned will consider how we can handle the issue of political reform together under the existing constitutional basis. The Basic Law is the supreme law for Hong Kong. The Basic Law has already clearly listed out the requirements for universal suffrage of the Chief Executive election. On 31 August, the Standing Committee of the National People's Congress also made a decision. To take the rest of the few steps, we need to put in joint efforts.

Can occupying the areas and blocking the roads help achieve the election of Chief Executive by "one person, one vote" in 2017? Under the existing basis of the Basic Law, what should we do? I very much hope that all those who are concerned about this issue can think deeply. I know that the Legislative Council will later deal with some oral questions about the development of our political system. I believe that the colleague responsible to answer the questions can expound further to Honourable Members in this aspect.

DR FERNANDO CHEUNG (in Cantonese): *Secretary T K LAI just now mentioned that not many people were injured since the incident. If similar incident happened in a foreign country, the result would be very different. Will Secretary T K LAI be satisfied only when there are rivers of blood? If it happened in a foreign country, facing such a large-scale people's movement, the political regime would have collapsed long ago — "689" would have stepped down long ago — right, the result will really be very different. No one is more shameless than "689"who can hide inside his own office, unwilling to face the public. To date, he only delivered his video-taped speeches. Surprisingly, he has an exclusive interview with CCTVB. What did he say? He said that the*

use of tear gas and the overuse of force were the responsibility of the field commanders. This was caused by them and was unrelated to him. However, he said he had participation in the entire incident, and according to common sense, how to use force was the decision of the field commanders.

I would like to ask Secretary T K LAI whether the Chief Executive has the authority to stop overusing of force? If the field commanders go berserk, or if individual police officers go berserk and resort to imposing extrajudicial punishment and overuse of force, hasn't the Secretary the authority to stop them; hasn't the Chief Executive the authority to stop them?

SECRETARY FOR SECURITY (in Cantonese): All police officers have undergone training. They have their professional judgment on the use of an appropriate level of force under the circumstance to protect people's lives and properties. Over the past 10-odd days, did anyone see the situation just mentioned by Dr CHEUNG? Please allow me to repeat the words used by him, and if I recall incorrectly, he may correct me — that there were "rivers of blood"?

At the beginning of my reply today, I already made it very clear that the use of Oleoresin Capsicum (OC) foam and tear gas is to create a safe distance among the crowds and to avoid body contact. The purpose is to minimize body contact and body injuries. The situation today is still the same.

I hope that Honourable Members can look at this incident from an overall perspective. The Police Force will definitely handle this incident with professionalism. A number of Members show concern about the incident that happened early in the morning. And I have also given an account to Members here immediately. I believe in — and urge you to do so — the system of Hong Kong. The system is very important. The investigation of any case should be done in accordance with the established procedures.

DR FERNANDO CHEUNG (in Cantonese): *My question is: When the Chief Executive or the Secretary sees overuse of force by the Police, does he has the authority to put a halt to it? My question is very clear. May the Secretary please answer.*

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I have already repeated many times that the Police have professional knowledge and professional skills. We believe and support the decisions of the Police.

DR FERNANDO CHEUNG (in Cantonese): *Deputy President, the Secretary has not answered my question. He only said that the Police were always professional and always the best. However, my question is: When they go wrong, does the Secretary has the authority to stop them?*

DEPUTY PRESIDENT (in Cantonese): The Secretary has already answered your question.

DR ELIZABETH QUAT (in Cantonese): *Deputy President, Occupy Central has already dragged on for 18 days. It has seriously affected the living and livelihood of many members of the public. Many people say that they can no longer bear it. They are getting more dissatisfied with the Occupy Central protesters. Many people say that they do not understand why the Police do not arrest the illegal occupiers, but instead, they use their bodies to protect them and block away the anti-occupiers. Nevertheless, many people still hope that I can express their support to the Police today. We hope that the Police can keep it up, continue to work for the public and safeguard Hong Kong.*

However, Deputy President, many people are also worried that if the incident goes on, how it would it end, and whether it would turn into a tragic ending. Although the Secretary and a number of people have, through different channels, sincerely and earnestly advise the protesters to leave the scene, there are also many irresponsible people as well as certain Members in this Chamber who keep on appealing to the groups to stay. Under the circumstances, it is necessary that the problem should be solved. If the Occupy Central action persists, I would ask the Government under what situation will it completely solve the problem so as to restore the order in Hong Kong; and does the authorities have any means to avoid a tragic ending?

SECRETARY FOR SECURITY (in Cantonese): Since Occupy Central took place, the Government has been taking a very tolerant attitude by allowing members of the public who have to air their views to do so. Of course, people do not want to see any clashes. However, when both parties with completely different views come into close contact, the Police will try to separate the groups. This is not meant to protect or not to protect any one group that holds certain views. The Police, however, have the responsibility to separate both parties in order to avoid any clashes.

In the evening on 3 October, if Honourable Members did notice from live television broadcast, you would see that police officers had to walk into the groups with difficulties, using their bodies to separate the groups in order to make out a narrow path, through which they brought away each time only a few people who needed or were willing to leave the scene. I thank Dr Elizabeth QUAT for relaying the public's silent support for the work of the Police. I am very thankful indeed.

As regards ending Occupy Central, I think the best and ideal way is a peaceful retreat of the occupiers from the trunk roads after careful consideration. It is because their road occupation is not only an illegal act, it has also caused much nuisance to the general public. There are losses in all walks of life. The Government has already assigned three locations for them to express their views. However, we are yet to hear their response. I would ask them to think and consider, and then give us a response.

MR CHRISTOPHER CHUNG (in Cantonese): *Deputy President, since 28 September, during the illegal Occupy Central, a large number of students are being cheated or forced to boycott classes by the Occupy Central protesters. During these two weeks, the performance of police officers in Hong Kong is very professional. They work with their highest endurance day and night. Some officers said that they had already worked for over 30 hours, without taking any sleep or rest. On district level, many people feel sympathetic and say that they have to pay the Police the highest respect.*

I would like to ask the Government or the Secretary about one thing. While the Police were on duty, a group of ruffians used umbrellas or other tools with sharp ends to charge towards the line of defence of the Police. A lot of

police officers were injured as a result. I would like the Secretary to say clearly that since 28 September, how many police officers have been injured? What are the conditions of their injuries, how serious are the injuries? Do the Police or the Government have any means to safeguard the personal safety of the police officers on duty?

SECRETARY FOR SECURITY (in Cantonese): I have some figures on hand at the moment, but they may not be comprehensive. As at 12 October, over 156 people related to the assembly required hospitalization. Among them, 20 were police officers. The Police will provide proper protective gear to all front-line officers for carrying out their duties. Therefore, they are equipped with helmets round shields or long shields.

I still recall that in the Mong Kok assembly, a front-line police officer did not wear helmet that night. As a result, he was hit by a stone. He was sent to the hospital and got five stitches on the head. Although he did not need to be hospitalized, he got five stitches on his head.

What is the purpose of police officers when they use their bodies to separate both parties? I have mentioned this many times. I do not find it meaningful if I repeat the answer here again. Nevertheless, I very much hope to say to the people who are either watching or listening to the Urgent Question session at this moment: You need to calm down and think about what should be done.

MR KENNETH LEUNG (in Cantonese): *Deputy President, the Secretary has already talked for three hours and his voice is getting weak. However, I still need to ask him a supplementary question. If someday a front-line police officer says to the Secretary, "I need to open fire", how is the decision-making process going to work? What I want to ask is: During this decision-making process, what are the respective roles of Mr LEUNG Chun-ying, Secretary LAI Tung-kwok, Under Secretary John LEE, Mr Andy TSANG, Commissioner of Police, and even the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region?*

SECRETARY FOR SECURITY (in Cantonese): When carrying out the duties, the Police always adhere to the principle that the minimum level of force should be used. Front-line police officers, commanders and the like have undergone stringent training. Over the past 10-odd days, when they used tear gas, OC foam, shields, and even when taking out police batons for defence, they have based on the same principle. I absolutely believe that the general police officers can properly and professionally deal with what is in front of them. People can see that they are very restrained. I hope that Honourable Members will not make a judgment on the basis of a certain event or on their presumption for what is going to happen.

On the evening of 28 September, it was heard that the Police had shot rubber bullets. It was proven by the fact that this did not happen. During the entire Occupy Central and road blockage, I think the evening on 28 September was a climax. Another climax was the Mongkok incident on the evening of 3 October. On the following day, some reporters asked me why the Police did not use tear gas. I remember roughly that my answer was: When adopting the means to keep distance among the crowds, the Police will take into consideration various factors, including the geographical environment at that time. In that area of Mong Kok, the roads are narrow while there are a large number of residents upstairs. The use of tear gas is thus not appropriate. The Police exercise professional judgments. I also believe in the Police's judgments. Hence I have stated here today more than once that the SAR Government is in full support of the Police.

MR KENNETH LEUNG (in Cantonese): *I did not mention individual incidents. My question is: If it is necessary to use a very high level of force — of course, the highest level of force is shooting with real bullets — who is going to make the decision, and what is the decision-making process? I only ask about some facts and the related standard procedure. Why could the Secretary not even answer this question? I did not assume or presume anything; nor did I refer to individual scenes … Don't put words into my mouth.*

DEPUTY PRESIDENT (in Cantonese): You have already pointed out that the Secretary did not answer your question. Please sit down. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): There are three principles governing the use of force by the Police. First, only the minimum force reasonably necessary to achieve a lawful purpose may be used. Second, when circumstances permit, police officers shall give warning of the intention to use force. Third, persons shall be given every opportunity, whenever practicable, to obey police orders before force is used.

MR CHARLES PETER MOK (in Cantonese): *It is obvious that Mr Kenneth LEUNG was asking about a question on shooting, but the Secretary did not answer. The Secretary for Security kept on saying that the best way to solve Occupy Central was to ask the protesters to pack and leave. Political issues need to be resolved by political means. The best solution is for Mr LEUNG Chun-ying to pack and leave. Mr LEUNG Chun-ying, you must have made a mistake. It should be for Mr LEUNG Chun-ying to pack and leave. And then the Government can have a proper dialogue with the students.*

However, Deputy President, today I am Mr Ken TSANG. Today in Hong Kong, everyone who has some conscience and who loves peace were Mr Ken TSANG. I find that I need to ask the Secretary a question on behalf of Mr Ken TSANG and everyone who is against the tyranny of the Government and the atrocities of the Police (of some police officers). It is a question on matters of principle. It is because I have seen the main reply and it keeps on saying that the Independent Police Complaints Council has received some cases. Since the public are very concerned about these cases and there are serious complaints, the related cases of complaints which need to be reported will be followed up by the Serious Complaints Committee. This is a fact. However, in all the responses and the written reply, the Secretary keeps on complimenting the Police Force. I believe that the Police Force is not all wrong; nor are they all correct. Why are you always standing on the side of the Police? Why do you exclude any possibility of having errors on their part? As a political accountable official, should you maintain a neutral stance on these matters? Should it be like the present case when the suspects are released before trial? As a result, some situations arose last night. As a political accountable official, do you feel that your indulgence has led to the situation last night when some police officers were out of control? With such a situation, do you think that you should be responsible for these acts due to your indulgence?

SECRETARY FOR SECURITY (in Cantonese): Different Members have different views. I do not agree with Mr MOK that we are indulging the Police. The performance of the Police has been observed by the public. If Mr MOK is referring to the incident that happened this morning, let me reiterate that the Police will definitely conduct a fair investigation. If it has been proved through established procedures and fair investigation that there are any acts against the law, we will proceed and handle them according to the law.

MR TONY TSE (in Cantonese): *Deputy President, there is no doubt that the illegal Occupy Central in progress has, to a certain extent, impacted on and ruined both the Hong Kong society as a whole and its economy. Besides, the daily life of many members of the public are also affected. I understand that many foreign countries and regions are keeping a close watch on the development of the incident, and in this connection, I would like to ask the Secretary whether any countries or regions have contacted the Government of the Special Administrative Region directly or through their institutions or representatives in Hong Kong to find out more about the development of the situation and relay their concerns and worries? For instance, have any governments or regions advised their nationals against travelling to Hong Kong, having business contacts with Hong Kong enterprises, or even investing in Hong Kong? Does the Secretary have any information in this respect? Further more, what measures will the Government adopt to help these countries or regions to have a better understanding of the latest development of the incident?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, as far as I know, no countries have issued any warning against Hong Kong or advised their nationals not to visit Hong Kong. However, some countries have reminded their people to avoid the areas affected by demonstrations as far as possible if they do visit Hong Kong.

MR TONY TSE (in Cantonese): *The other part of my supplementary question was about the measures the Government will adopt to help those countries or regions have a better understanding of the latest development of the incident.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, as I have mentioned earlier on when answering other questions, our Economic and Trade Offices overseas have directly and actively informed the local mass media in their respective regions that it is safe to come to Hong Kong. We have also given them a very clear picture of the demonstration areas, so that they can avoid the relevant areas in planning their activities in Hong Kong.

DR KENNETH CHAN (in Cantonese): *Deputy President, the Secretary for Security has time and again claimed that the tear gas would only cause short-term discomfort to the charging crowds. I wonder if the Secretary has read an article in yesterday's South China Morning Post (SCMP) reporting on the views of four doctors, including Prof Ronnie POON from the University of Hong Kong. They have pointed out to the SCMP editor that according to some clinical studies, tear gas and pepper spray may cause health risk to the protesters. Hence, what the Secretary has mentioned in his speech notes are but some half-truths.*

Deputy President, I have personally experienced the pepper spray and tear bombs used at Tim Mei Avenue outside the Legislative Council in the early morning of 27 September and on 28 September as well. Subsequently, however, we saw the Police imposing extrajudicial punishment when carrying out their clearance actions yesterday or in the small hours of today, as some police officers attacked demonstrator Ken TSANG even though his hands were already tied to his back. According to my personal experience, the Police can be very rough and violent in carrying out their clearance actions.

However, we have also seen that Commissioner of Police, Andy TSANG, in an attempt to boost police morale, assuring loudly to the police officers that "they have done nothing wrong". So, the supplementary question I wish to ask the Secretary is: Has the Police Force, including Commissioner Andy TSANG, received any psychological assessment from 27 September to date? Are they really emotionally stable enough to exercise restrain and tolerance as the Secretary has referred to? Are they still suitable for carrying out and executing such important decisions involving police officers?

SECRETARY FOR SECURITY (in Cantonese): I believe the responsible colleagues have been working long hours in recent days, but I also believe that both their physical and psychological conditions are suitable for dealing with the incident. They will not back off. This is because we have a responsibility to restore order in Hong Kong so that members of the public can lead a normal life.

I am aware of the press report referred to by Dr CHAN just now, but I regret to say that I do not have the time to read it. I wish to take this opportunity to point out the fact that the tear gas and pepper spray are not manufactured by the Hong Kong Police or used by the Hong Kong Police alone. The police forces of other places across the world, including those of advanced countries in Europe and America, are also in possession of such kinds of equipment. The pepper spray and tear gas used by police forces across the world are of the same components, and the criteria for applying such are more or less the same.

DR KENNETH CHAN (in Cantonese): *Deputy President, the Secretary claimed that each and every police officer is psychologically fit …*

DEPUTY PRESIDENT (in Cantonese): You only need to point out the part of your supplementary question which the Secretary has not yet answered.

DR KENNETH CHAN (in Cantonese): … *fit to carry out the actions concerned, which means that the six to seven police officers involved in last night's incident were also psychologically fit in this respect. Now that the Secretary has deployed them to other posts, has he also required them to receive psychological assessment as well?*

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): The reply I gave just now was referring to the management level of the Police Force which the Honourable Member had asked. If any police officers should consider themselves emotionally frustrated, the relevant experts in the Police Force would be ready to provide them with appropriate counselling.

MR ALBERT CHAN (in Cantonese): *Deputy President, I would like to first congratulate the Secretary, for the international media have been paying great attention to the Hong Kong Police recently. Perhaps the leaders of the Central Government have also given high praise to the Force already. In particular, under the leadership of the Secretary, the collaboration of the Police with gangsters has become a focal point of the world. Thanks to the Secretary's governance, the mode of governance of the Police Force has quickly come in line with that of the public security officers on the Mainland. This is one remarkable contribution made by the Secretary, as the Police Force has quickly turned into the "red" police under "one country" and thereby eliminated "two systems". Such a contribution will certainly win a Grand Bauhinia Medal for the Secretary.*

Deputy President, my supplementary question is related to the second half of the supplementary question raised by Dr Kenneth CHAN just now, which enquired about the physical and psychological conditions of police officers. I saw the performance of police officers on Lung Wo Road yesterday, and I would say that the majority of them could still exercise restraint. Nevertheless, I have also seen the eye expressions and behaviour of a small number of police officers, and how some police officers chased and beat up protesters crazily after they had charged forward a bit or shown their dissatisfaction. I find that worrying. Secretary, the distance between the officers and me was but a few feet. I hope the Secretary will review the video records and see how some of the police officers behaved as if they were suffering from psychosis, mental disorder or even delusion.

Deputy President, I am a professional social worker and unlike some people who bought their Master's Degrees or got them by way of cheating, I have earned mine in school. Hence, from my past experience in dealing with child abuse cases, I have seen and handled many cases involving stressed workers losing their temper and ending up beating their children black and blue. The conditions of some police officers are similar to the persons involved in such cases.

Hence, I wish to ask the Secretary this question: With regard to the Secretary's governance and the fact that police officers are under such enormous pressure, how is he going to ensure that no police officers will lose control due to work pressure, psychosis or mental issues, thus putting the entire Police Force to shame and causing some protesters to be beaten black and blue? How is the Secretary going to prevent such from happening?

SECRETARY FOR SECURITY (in Cantonese): First of all, Deputy President, I do not agree with Mr CHAN's allegation of turning the Police Force "red" or "somewhat like the public security officers". I definitely cannot agree with that.

Secondly, if our commanders on the front-line or commanding officers of the duty squads should find any colleagues suffering from emotional disturbance, they would take the appropriate actions accordingly, including the arrangement I have mentioned a number of times earlier on, which is the provision of timely counselling by the clinical psychologists of the Police Force. I am not a professional social worker, and last night I was not able to observe the situation at a distance of just a few feet like Mr CHAN did. However, one thing I am sure is that the Hong Kong Police Force has a very good track record. The Police Force has been established for 170 years, and this is a long history. Moreover, we also have a good culture to boast of. Among the Police Forces across the world, ours is generally recognized as very outstanding. As such, I find it totally impossible to accept the criticism made by Mr Albert CHAN just now.

DEPUTY PRESIDENT (in Cantonese): Which part of your supplementary question is not answered?

MR ALBERT CHAN (in Cantonese): *Deputy President, if the Secretary does not admit that the police officers are becoming more like the public security officers, perhaps they are becoming more like the "urban management teams", right? Certainly, when it comes to the outstanding performance of the Police Force …*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, you only need to point out the part of your supplementary question which the Secretary has not answered.

MR ALBERT CHAN (in Cantonese): *Deputy President, the Secretary has not touched on the immediate grave issue I have raised. With regard to the huge pressure on many police officers which cause them to suffer from mental disorder or other mental problems and so on, how is the Secretary going to …*

DEPUTY PRESIDENT (in Cantonese): Please raise your supplementary question.

MR ALBERT CHAN (in Cantonese): *How is he going to … Do he have any new mechanism or new approach to deal with and identify beforehand the relevant problems?*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, you only need to point out the part of your supplementary question which the Secretary has not answered.

MR ALBERT CHAN (in Cantonese): *Deputy President, I have pointed that out already, only that you did not listen.*

DEPUTY PRESIDENT (in Cantonese): Please take your seat. Secretary, do you have anything to add?

MR ALBERT CHAN (in Cantonese): *Just now I was asking about the identification …*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please sit down. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, if our commanding officers on the front line should notice any colleagues suffering from any psychological issues, they would take the appropriate actions.

MR ALBERT CHAN (in Cantonese): *Deputy President, I was asking how the problems could be identified beforehand, rather than waiting until something happened, some family members got killed or other … it would be too late to regret than.*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please sit down. The Secretary has given his reply.

MR ALBERT CHAN (in Cantonese): *Deputy President, do you consider this a reply?*

MR WONG KWOK-HING (in Cantonese): *Deputy President, the Hong Kong Federation of Trade Unions wish to express heartfelt thanks, respect and support to our police officers for holding fast to their duties to safeguard public security without any complaints.*

Deputy President, the so-called Occupy Central movement has now been staged for 18 days. As the saying goes, "It takes more than one cold day for the river to freeze three feet deep". If we look deep into it, we can see that this movement has been planned for a long time and is a well-organized, well-planned and well-supported Umbrella Revolution with foreign involvement and background. As regards the term Umbrella Revolution, it is in fact advocated by a magazine published by Jimmy LAI's Next Media. Moreover, Jimmy LAI has also admitted on different occasions that he had handed out money to political parties, organizations and Members from the "pan-democrat" camp to stage a so-called colour revolution in Hong Kong. Hence, I wish the Administration can tell us whether the Government will conduct a comprehensive investigation in this respect, take follow-up actions and urge the law-enforcement agency to enforce the law solemnly, including invoking the Prevention of Bribery Ordinance to find out if any persons are involved in money laundering or taking bribes, or invoking the Inland Revenue Ordinance to find out whether any persons have failed to file their tax return or carried out illegal activities in breach of the relevant legislation on organization registration?

SECRETARY FOR SECURITY (in Cantonese): All the law-enforcement agencies in Hong Kong will implement their duties in accordance with the laws of Hong Kong. Upon receiving reports of cases, the relevant agencies will commence investigation in accordance with the law.

DR PRISCILLA LEUNG (in Cantonese): *Deputy President, I can see that the protesters are directing increasingly strong hatred and insults towards the Police. Benny TAI, one of the Occupy Central organizers, has written an article to urge the Police to disobey the authority. Besides, when I visited the occupied districts, I also saw some banners with words like "police go on strike".*

Deputy President, let us think about this. If the Police Force is suffering from low morale or if police officers go on strike, who will be the happiest ones? Naturally, the criminals will be the happiest. Actually, if the police morale suffers, the ones who should worry most are the Hong Kong people. However, today we have seen that police officers have become the ones caught in the middle, despite the fact that their responsibility is to enforce the law. I wish to point out that the police officers should not become the protesters' enemies. If members of the public have different views, they should express their views in a more peaceful and better way. However, the Police Force is now caught in the middle of two groups of people. Some members of the public consider the police officers too slow in enforcing the law, while others put blames on the Police Force as a whole because of a trivial matter or two …

DEPUTY PRESIDENT (in Cantonese): Dr LEUNG, what is your supplementary question?

DR PRISCILLA LEUNG (in Cantonese): *Deputy President, please let me finish my words.*

I believe that if any members of the Police Force should have done something wrong, the authorities would certainly conduct a serious investigation in accordance with the police procedures. Our concern at this juncture is the morale of the Police. I have heard that some police officers are very young, and if they overdo something, they will be reprimanded by the whole city. In their view, the Police Force is not only under pressure but also subject to insults. This is not what they wanted to do when they first joined the Force. If their performance in law-enforcement is affected by the low morale of the Police Force and it has caused them to become overcautious, will the Hong Kong Police end up like the police forces in the Philippines and India? What should the Bureau do to boost the morale of the Police and repair the Police-public relations? Does the Bureau have in place any plans and strategies?

SECRETARY FOR SECURITY (in Cantonese): The Police Force is fair and just, and police officers handle matters impartially in a professional manner, adhering to the same criteria and ensuring fairness to all parties in carrying out various actions. It is my belief that such basic principles can enable police officers to adhere to the training they have received and tackle the hardships and challenges before them in a fair and just manner. The hardship and challenge before them now is unprecedented.

I am grateful to many members of the public and organizations for the support they have given to the work down by the Police over the past days. As Secretary for Security, I fully support the Police Force to enforce the law.

MR LEUNG YIU-CHUNG (in Cantonese): *Deputy President, the Secretary mentioned the following in his reply to Mr Frederick FUNG's question: "Just imagine once the police cordon was broken through by piles and layers of crowds formed by thousands of protesters, and with swarms of crowds crushing their way forward, the dire consequence of a stampede involving a large number of falls, trampling accidents, serious injuries or even fatalities was highly probable. The Police were, therefore, bound to take immediate measures to keep the crowds at a safe distance in order to avoid heavy casualties that might result from any scuffles or charging acts."*

Deputy President, the Secretary's reply was not some imagination but pure supposition that did not agree with facts. We have seen that on quite a number of occasions, police officers had used pepper spray against the people even though they were standing behind the mills barriers, and the Police even snatched people's umbrellas and sprayed at their eyes on purpose. There were other police officers who tapped on the protesters' shoulders and waited for them to turn their heads back so that they could spray directly into the protesters' eyes. What is more, last night some police officers deliberately removed protesters' goggles to spray the pepper into their eyes. With regard to the professional training referred to by the Secretary, have the police officers been trained to do such things? Also, during the early hours of the 29th, I was there at Tim Mei Avenue and I saw police officers running into a crowd of people and firing tear bombs at them. Let us think about the possible result of police officers running into a crow of people to fire tear bombs. Not only would the crowd be hurt by the gas, they would be hurt even more badly if they were scalded by the heat of

the bombs. It was fortunate enough that no such things happened then. Nevertheless, could so doing be regarded as some kind of professional training? In addition, I would also like to ask the Secretary whether it was LEUNG Chun-ying or the commanding officers at the site who gave the order to fire the tear bombs?

SECRETARY FOR SECURITY (in Cantonese): Mr LEUNG, this is a picture we download from the Internet. We can see a line of police officers in this picture and they faced with countless rows of charging people. We can also see that the mills barriers used to separate the charging crowd and the Police have been removed. Please imagine what would happen if people tried to seize the mills barriers and pushed against each other? I have repeatedly answered questions about the Police using tearing gas and I am not going to repeat my words here. I just wish to stress one point: Keeping the crowds at a distance is the best approach, and the actions taken on that day have achieved this purpose.

MR LEUNG YIU-CHUNG (in Cantonese): *Deputy President, the Secretary has not answered my supplementary question at all. I asked him whether the professional training covers removing protesters' goggles and spraying at their eyes, and running into a crowd of people to fire tear bombs. I have also asked him whether it was LEUNG Chun-ying or the commanding officers at the site who gave the order to fire the tear bombs. However, he has not answered me at all.*

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, a supplementary question can only raise one question, and you have raised it.

MR LEUNG YIU-CHUNG (in Cantonese): *Deputy President, all these issues are related to one single question.*

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I have answered that many times. Our police officers on the front line will make their professional judgment in the light of the actual situation and determine the appropriate kind of force to be employed.

MR IP KIN-YUEN (in Cantonese): *Deputy President, I believe we all understand very well that the police officers on the front line are experiencing great difficulty, as they are caught in the middle of two groups of people. Given that government officials have failed to resolve the political issues in question or have not done their best in this regard, they are forced to take various actions to tackle with the petitions presented by members of the public. I can understand the difficulty they are faced with. Nonetheless, no matter how difficult the situation is, I believe the professional behaviour and performance of the Police are also the focus of our concern.*

Deputy President, I would like to use a simple case as an introduction to my supplementary question. If a teacher had problems dealing with his students and he decided to tie the students up and beat them up for four minutes, I believe nobody would agree with his approach or believe that so doing is in line with his professionalism. What then should we do with this teacher? If the school just responded by saying that it would conduct an administrative investigation internally and then transferred him to another class, would we take this as a reply? I believe that should we report him to the Police, the Police would certainly take it as a criminal case upon arriving at the scene. Just now the Secretary referred to the incident that took place at Lung Wo Road last night, and the things we have seen in this incident is exactly the same. The explanation we have heard is that the authorities would conduct an internal investigation and transfer the relevant police officers to other post. Can such an arrangement be of help to restore the reputation of the Police as a whole? Individual police officers doing wrong deeds are individual cases, but if the Police Force cannot rectify the issues through its institution, the cases will become a problem for the entire institution and tarnish the reputation of the Police. In view of such, I would like to ask the Secretary whether he knows the principles adopted by the Police Force in choosing not to deal with the issue in question as a criminal case. As Secretary for Security, does he accept such approach?

SECRETARY FOR SECURITY (in Cantonese): My Under Secretary has worked as a police officer for many years in the past, and he reminded me just now that the Complaints Against Police Office had put in in place a set of procedure for conducting criminal investigations. I have already pointed out many times that if any law-offending acts are identified, we will certainly handle the matter in accordance with the law. Members really need not worry about that. Nevertheless, we already have in place a system in this respect and the system must be adhered to. As such, we should not rely on one's own personal judgment.

MR TANG KA-PIU (in Cantonese): *Deputy President, my concerns are mainly issues such as the traffic condition and the livelihood of drivers. In his reply to the fifth urgent question raised by Mr TAM Yiu-chung, the Secretary has mentioned that the daily patronage of railway services has increased by 13% during the Occupy Central period. From this we can see that in addition to causing the students to "sleep on the street", the illegal Occupy Central has almost eaten up a part of professional driver's income, as their jobs are also affected. I would like to ask the Secretary whether he has contacted the franchised bus companies and tram company to find out if these companies have made any forecast for the worst scenario, by that I mean how long can these companies sustain in the face of the Occupy Central movement until the profit performance pressure has become so great that they have to increase their fares or lay off employees. Has the Bureau made any effort to find that out?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, as I have mentioned in my reply to Mr TAM Yiu-chung earlier on, the various public transport systems have been under immense pressure in the past 10-odd days. This is because members of the public need to commute every day, and when road-based transportation services are unavailable, or when bus routes have re-routed and thus cannot take them to their destinations, many of them have to use railway services. Hence, the pressure on railway services has become increasingly heavy.

During the past 10-odd days, in addition to the 2 800 front-line operational staff members working in the railway system in accordance with their schedules, the MTRCL has deployed an additional 400 front-line operational staff members to provide services. We hope that the road blockade issue can be resolved as soon as possible, and that the situation must not be allowed to deteriorate,

otherwise the entire public transport system will be faced with increasing pressure, and eventually reach a point beyond the capacity of the entire system. We have not reached the situation yet. Different corporations have to assess the impact of the movement on their operation and business performance. Having said that, some minibus drivers and taxi drivers have indeed relayed their views to the transport-related government departments. Over the past 10-odd days, the transport-related government departments have contacted the various trade groups for more than 100 times, and we have listened to their "bitter grievances", and I hope … In his replies to other Members' questions earlier on, Secretary T K LAI has mentioned that the issue before us is unprecendented. We understand the political demands of the protesters, but as they have opined, political issues should be resolved by political means, and occupying the roads is not a way to resolve the issues. Ultimately, if our society needs to resolve an issue, we need to find out a way that can win the hearts of the public.

MR CHAN HAN-PAN (in Cantonese): *Deputy President, it was my thought that seeing our community has come to a stage where public order is chaotic, serious dissension exists among members of the public, and their life and livelihood are affected, the pan-democrat Members would help urging the Occupy Central organizers and the people behind the scene to stop and let our society resume order. However, rather than helping, these Members are in effect adding fuel to the fire and stirring up more social conflicts, thereby tearing apart our society further. Hence, members of the public can see clear what kind of persons they are.*

My supplementary question is: As indicated by the information from different sources, the participants in this illegal occupying movement are organized by some organizations to occupy the streets illegally and to charge against the lines set by the Police, thereby causing injuries to participants and police officers, and inflicting various kinds of losses on members of the public. The Police have pointed out many times that the participants have already committed some offences and may be arrested. Nevertheless, the organizers of the illegal congregation and charging actions still lead or encourage the people to violate the law collectively and create social disputes deliberately. Moreover, there are also press reports that they have received foreign financial support to organize such activities. Will the Police make any timely follow-up efforts and take the appropriate actions to prevent them from further organizing activities of this kind, so as to safeguard the interests of the public?

SECRETARY FOR SECURITY (in Cantonese): The law-enforcement agencies will investigate and follow up whatever acts that are in breach of the law.

MR TOMMY CHEUNG (in Cantonese): *Deputy President, the government officials relevant to the supplementary question I wish to raise are not present today, but I still wish to raise the question. The Catering Functional Constituency called a press conference on Monday and pointed out that this Occupy Central movement had, as Mr TAM Yiu-chung mentioned just now, impacted seriously on the food and catering industry, and therefore the industry wished to voice out a number of demands, two of which were related to the Government. First, we hope that the Government will expeditiously implement a loan guarantee scheme similar to the one implemented during the SARS period. Actually, the Deputy President has also raised a similar question earlier, but mine is more direct. We hope that this loan scheme can be implemented on the same terms as the one introduced then, including bank interest rates, amounts of monthly repayment, and so on. I hope the Government will give us a prompt reply in this respect. In addition, during the SARS period, the Government also granted licence fees exemption to the food and catering industry, and all licence fees were exempted so long as they were licences issued by the Food and Environmental Hygiene Department. I am not sure if any public officers present today can respond to this point, and I also hope that some Secretaries will relay my views to Secretary Dr KO Wing-man. As regards the loan-related part, I believe it should be answered by the Financial Services and the Treasury Bureau. I hope the Government can give us a reply expeditiously, as the industry is now approaching the critical point and we cannot hold on much longer if the Government does not offer us some encouragement.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, in my reply to Mr LAM's supplementary question earlier on, I have also mentioned a three-month special guarantee scheme implemented during the SARS period to provide assistance for industries like retailing, food and catering, tourism, as well as entertainment. This scheme was known as the SME Loan Guarantee Scheme, as we did not have in place at that time (2003) the existing SME Financing Guarantee Scheme, in particular the special concessionary measures introduced currently. Actually, if the relevant industries have any capital needs, they may apply for these special concessionary measures under the SME Financing Guarantee Scheme.

Certainly, while I have heard other Members referring to the present situation as a unique one, I have also mentioned in my replies earlier on that we would liaise closely with the industries concerned and handle the matter flexibly, with a view to finding out ways to help the industries.

MR KWOK WAI-KEUNG (in Cantonese): *Deputy President, out of the five urgent questions, only the one raised by Mr TAM Yiu-chung asks about the impact of Occupy Central on our society. The other four urgent questions raised by the pan-democrat Members are but some pretexts for attacking the image and morale of the Police Force, and espousing those people occupying the roads illegally. They are in fact giving support to those participating in the illegal occupy movement. I wish to take this opportunity to pay my compliment to our police officers. Thanks to their toil to clear the roads yesterday, we could go home after work last night and go to work this morning.*

Just now the Secretary mentioned that the authorities would introduce some special measures under two existing schemes to provide assistance for the SMEs faced with hard times. We are in support of such moves, as they are illustrative of how grave an impact Occupy Central has on our society. However, the focus of my supplementary question is on the wage earners, particularly those who are not paid for the non-working days. Will these people whose livelihood has been affected by Occupy Central receive any support from the Government? Among these people, some are taxi drivers and minibus drivers whose earnings are not enough to cover the operating costs, bus drivers who are assigned with less trips, tram drivers who are required to take no-pay leaves, insurance agents who cannot secure any new policy deals, people engaged in industries like retailing, tourism, hotel and the construction industry which offers no new jobs. Have the authorities formulated any relevant support measures for these people. If they have, what are the details; if not, will the Government provide assistance for these wage earners who are not paid for the non-working days, so that they can claim compensation from those people who urge members of the public to take to the streets every day?

DEPUTY PRESIDENT (in Cantonese): Which Secretary will reply to this? Secretary for Home Affairs, please reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Deputy President, we have learned from the community that some people whose livelihood has been affected by Occupy Central are seeking compensation for their financial losses by way of the Small Claims Tribunal. We also understand that some volunteer organizations in the community are helping these people to claim the relevant compensation through legal means, and a number of small shops have already started pursuing their cases.

MISS ALICE MAK (in Cantonese): *Deputy President, a colleague asked the Secretary earlier on whether the Police would be required to seek his advice before taking any actions. I believe we can tell by common sense that this is not necessary. Does any one expect the police officers discharging their duties to step aside and call the supervisor whether they are allowed to take certain actions? How can you expect someone to be that stupid. Hence, I believe we can tell by common sense alone that the police officers will make their professional decisions at the site of the relevant incidents. We should have trust in them, and we should also rely on their professional judgment and the appropriate actions they take accordingly.*

As we all know, many police officers have been working continuously for a very long period of time. Could the Secretary provide us with figures in respect of the police officers on duty, such as how long they have been on duty without taking any leave? We understand that even those police officers who are not deployed to take the actions concerned and those who are stationed in other districts are required to cancel their leaves. Could the Secretary tell us whether the police manpower deployment — not only that of the occupied areas but also other districts — has been affected, whether the police manpower of other districts has been affected as a result of the need to deploy some of their police officers to the illegally occupied areas, and thereby affecting the relevant districts' efforts to maintain law and order?

SECRETARY FOR SECURITY (in Cantonese): I can tell Miss MAK that the Police will deploy their manpower resources as appropriate, and in addition to handling the matters that take place in the occupied areas, they have all along been able to provide police services as normal in all other districts across the territory.

Certainly, in the face of such a challenging juncture, many police officers have to work longer hours, and their leave arrangements will also be affected. These are undeniable facts. Nevertheless, I believe our colleagues in the Police Force are capable of maintaining law and order in Hong Kong. As I have mentioned just now, and Members can also see with their eyes, despite the large-scale and extensive road blockades, the law and order situations of the various districts across Hong Kong are no different from the past.

MR WONG TING-KWONG (in Cantonese): *Deputy President, during this period, many trades and members of the public have relayed to me that they are grateful to the police officers for their hard work all along, and they are in support of the Police's law-enforcement efforts made in accordance with the law.*

Over the past 18 days, Occupy Central has already inflicted grave damage on Hong Kong. The persons and organizations who initiated Occupy Central have vowed solemnly that they would stop the Occupy Central movement immediately if violence should be involved. However, what are they doing now? They have stepped aside to continue stirring up the people maliciously. The daily life of the people are gravely disturbed, and the most badly affected are the small and medium enterprises (SMEs), especially those located in the occupied areas. These SMEs have to pay rents, wages and various kinds of bills. How long can they remain in operation? Even though the Government may provide them with some forms of assistance during this period of time, such measures cannot be implemented for a long-term. Hence, I wish to ask the authorities whether they have in place any timetable and planning for resolving the existing predicament, so that our society can restore its order expeditiously.

DEPUTY PRESIDENT (in Cantonese): Which Secretary will reply to this? Secretary for Security, please reply.

SECRETARY FOR SECURITY (in Cantonese): Restoring the order of our society is our common goal and target. It is obvious to all that the problems caused by Occupy Central have aroused strong views from members of the public. The Government has made two points very clearly. First, it is our hope that the Occupy Central participants will leave the road blockade sites; and second, we have offered them three alternative sites and hope that they will move

over to such sites to express their views. We will still be exercising our greatest patience in trying to resolve the issue expeditiously, so that the lives of the general public can resume normal as soon as possible.

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, I believe the millions of population in Hong Kong and even the whole world have already seen this news clip in which six police officers arrested a protester, tied his hand to his back, pulled this man under their control to a dark corner and beat him black and blue. Secretary, so doing should not be referred to as "applying excessive violence" but "assault, attack, severe punishment and torture". However, instead of arresting these police officers or suspending their services, the Police Force just deploy them to other posts. After watching the news clip, some members of the public noticed that not only six persons are involved, the seventh one is a guy with glasses. Will the Secretary please explain to us whether five, six or seven police officers have been deployed to other posts? However, this is not the supplementary question I wish to raise.*

Deputy President, a retired police officer told me he was very much frightened after watching the clip. According to him, when police officers imposed extrajudicial punishment in the past, most of them would do it inside police stations rather than on the site. He just could not understand why the police officers concerned had to do that on the site. In his view, even if they had no other choices, they should beat the man up in a place where nobody could see them. Is it because the internal guidelines of the Police Force have changed or there are insufficient internal guidelines that these police officers were at a loss as to what they should do?

Secretary, what I wish to point out is that the police officers are really out of control and have lost their mind. It is normal for them to beat people up, but it is abnormal for them to do so in front of other people's eyes and the cameras of some television stations. Just now the television station told me that a red light would be lit if their cameras were filming something. However, one of the police officers involved was in fact keeping watch, and yet he could not notice the red light. The only explanation is that the police officers had lost their mind. They knew that some people were filming, yet they still beat the protester up. The Secretary always claims that they have in place a mechanism, but the problem is that the said mechanism has collapsed and failed to keep the police

officers under control. Perhaps it is due to huge work pressure or some other unknown reasons that the police officers have lost their mind. Could the Secretary inform us whether any contingency measures are in place to ensure that the police officers continue to carry out the law-enforcement duties in this Occupying Central movement will not lose their mind or control like the ones involved in the said incident, so that they will not impose extrajudicial punishment in front of the whole world?

SECRETARY FOR SECURITY (in Cantonese): The Police Force has started investigating into the incident, and I believe any presentation of views with intense emotion is of no help. Our Police Force is not like what Mr CHAN has described. Rather, it will conduct a fire and just investigation into the incident, and this is in line with the system I have referred to time and again. If we do not handle matters in accordance with the system, many unimaginable results may be incurred, and I believe no members of the public will wish to see such results.

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, he has not answered my supplementary question. I am saying that the system has broken down, and I ask him to tell us what emergency measures are in place. If he cannot give any answer, then would he please tell me how many police officers have been transferred away from their current positions? Five, six or seven? This is only a question on statistics. I hope he can give an answer.*

DEPUTY PRESIDENT (in Cantonese): You have already stated your follow-up question. Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): I do not think that the management of the Police Force or any other aspects has broken down as asserted by Mr CHAN. We should not boundlessly, boundlessly, boundlessly magnify any single incident. As for Mr CHAN's question on the number of police officers involved, I do not have any relevant information on hand because I was already here around 10.40 am, 10.45 am.

MR CHAN CHI-CHUEN (in Cantonese): *The Secretary does not have anything to add! The question on the number of police officers who have been transferred away from their current positions is just about statistics. Why can't he give any answer all the same? Hasn't he got any mobile telephone and WhatsApp? Deputy President, he has not answered my supplementary question.*

DEPUTY PRESIDENT (in Cantonese): You said right at the very beginning that your supplementary question was not about the number of police officers who had been transferred away from their current positions.

MR CHAN CHI-CHUEN (in Cantonese): *Since he cannot answer the question on emergency measures, I want to ask him to tell us the number of police officers who have been transferred away from their current positions.*

DEPUTY PRESIDENT (in Cantonese): The Secretary has already given his reply.

MR ABRAHAM SHEK (in Cantonese): *Deputy President, I agree strongly with the Secretary that the Hong Kong Police Force is a fine police force in Asia. Deputy President, I also agree and believe strongly that many students out there are sincere and committed. They believe that what they are doing out there actually constitutes a pursuit of the answer. But it seems that all the 70 Members now in the Chamber are instead pursuing the question of who are right and who are wrong. This should not be our pursuit at this moment. The answer we must now pursue is, allow me to refer to a Bible story, how we can lead the students across the Red Sea, how we can guide them in seeking a way out. History itself will certainly tell who are right and who are wrong. But, well, my supplementary question is not about this point.*

Deputy President, I must declare that I am a Vice-Chairman of the Independent Police Complaints Council (IPCC) and also the Chairman of its Serious Complaints Committee. The following is the question I want to ask the Secretary. We still need to do follow-up work. I know that several hundred complaints have been lodged, and more complaints will be received. We must

accord truly fair treatment to both complainants and complainees. Will the Secretary increase the manpower and resources for the Complaints Against Police Office (CAPO), so as to enable it to complete the required investigation as early as possible? Besides, we in the IPCC are likewise in great need of resources for examining the relevant complaints. Will the Secretary increase the resources for us? This question is a very simple one. The Secretary should be able to answer it.

SECRETARY FOR SECURITY (in Cantonese): I can answer the first part of Mr SHEK's question. In case the existing manpower of CAPO proves to be inadequate, additional manpower can be deployed to it under an internal mechanism of the Police. As I mentioned in the main reply just now, the Police will fully support the relevant investigation. As for the IPCC, in case there is any need for additional manpower, an established mechanism is also in place whereby the IPCC can file an application with the Government for resource allocation.

MR ABRAHAM SHEK (in Cantonese): *This is an unusual period, and unusual measures must be adopted. The IPCC is facing a manpower shortage because we need to handle all these cases. We also need to handle them indeed very quickly in order to ensure fair treatment to both complainants and complainees, not least because most complainees are police officers. These police officers need to know the outcomes, and there is also a need to make decisions that specify whether the complaints lodged by complainants are substantiated. If the long-standing mechanism is adhered to, it will be impossible to hasten the handling of such cases, and the whole process may then take at least several years. This is something we do not wish to see, Deputy President.*

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): I have heard the opinion of Mr SHEK.

MR SIN CHUNG-KAI (in Cantonese): *Deputy President, what I am holding is the shell which contained one of those 87 tear bombs. Occupy Central has been mooted for more than one and a half years, and the Police have already drawn up Operation Solar Peak, which contains various plans for dispersing occupiers of Central. Did the Police brief the Chief Executive, in the course of planning, on how dispersal actions would be taken? During such briefings, was the Chief Executive ever made aware of the circumstances under which the Police would use tear bombs? Did the Chief Executive ever give the Police any instructions during such briefings?*

SECRETARY FOR SECURITY (in Cantonese): When it comes to police operations and the Government's internal meetings, we will not, as a long-standing practice, publicly disclose any relevant details. However, I can tell Honourable Members that the principle governing the use of force by the Police is a long-established principle. Rather than being drawn up only earlier today or a few days ago, it is a long-standing principle. Police officers are equipped only with the standard tactical gear comprising pepper spray and tear gas. These are all the standard gear, nothing novel and nothing new. To sum up, during each and every operation, the Police will always decide on a handling approach after conducting an assessment of the situation at the scene based on their past training and all their professional expertise.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary has not answered my supplementary question. My supplementary question is very simple. Have the Police ever briefed the Chief Executive on the circumstances under which they will use tear bombs?*

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): I have already answered Mr SIN's supplementary question.

DR LAM TAI-FAI (in Cantonese): *Deputy President, I have been calling upon assembly participants and the Police to remain calm, exercise self-restraint and seek to avoid any scuffles, bloodshed and bodily harm. Honestly speaking,*

Hong Kong as a civilized community will never accept any acts of violence from assembly participants and any police violence of a retaliatory nature.

Deputy President, my supplementary question is both straightforward and simple. In a nutshell, how is the Government going to bring all occupation activities to an end, now that they have persisted for such a long time? If the Government does not formulate a well-thought-out plan to end all occupation activities, clashes between the Police and demonstrators are bound to recur frequently and endlessly. The split of the community will go on. The economy and people's livelihood will continue to sustain impact. The Police will continue to be caught in the middle. The relationship between the Police and the community will keep deteriorating, and dispersed demonstrators will certainly return once there is any opportunity. May I ask the Secretary whether the Police have drawn up any Plan A, Plan B or even Plan C which can achieve the total clearance of all occupied locations? Is there any specific or estimated time frame? I am certain that members of the public are all very concerned about and interested to know the answer to this supplementary question of mine, because the Police have kept calling upon demonstrators to withdraw voluntarily, and this is a highly unrealistic appeal.

SECRETARY FOR SECURITY (in Cantonese): The whole matter is very complicated. It is not only unprecedented but also fast-changing. This explains why the Police need to tackle the whole thing step by step in the light of the actual situations at the scenes. We already started to take actions a few days ago. After failing to persuade demonstrators to leave and not to block the roads, and following futile attempts to reopen the roads concerned, we took the measure of removing the barricades erected on the roads. This measure will continue to be taken, at least until all relevant roads in Hong Kong are free of any obstruction and people's daily life can return to normal. Besides, we have also advised demonstrators to move their assembly venues to Tamar Park, the lawn in Victoria Park and Macpherson Playground in Mong Kok. Naturally, we very much hope that they can put an end to their assemblies altogether. But if they still consider it necessary to hold any assembly, we would ask them to move to the abovementioned venues at the very least, so that people's daily life will not be upset. All Hong Kong people hope that everybody can be peaceful and friendly. I do hope that all assembly participants can think twice.

DR LAM TAI-FAI (in Cantonese): *Deputy President, very clearly, the Secretary has failed to answer the part of the question relating to the issue which people are most interested to know and most concerned about. I am asking him whether there are any plans for the total clearance of all occupied locations, and whether there is any time frame. I am talking about clearance, not voluntary withdrawal.*

SECRETARY FOR SECURITY (in Cantonese): We will take appropriate actions at appropriate junctures.

MR MICHAEL TIEN (in Cantonese): *Deputy President, in the South China Morning Post today, a senior counsel says in his article that while demonstrators' freedom of assembly is safeguarded under Article 27 of the Basic Law, it is nonetheless a criminal offence to occupy any public space and cause obstruction to others. He also quotes one relevant judgment handed down by the Court of Final Appeal: "The mere fact that an assembly … causes some interference with free passage along a highway does not take away its protection under Article 27 … unless the interference caused is unreasonable in the sense of exceeding what the public can reasonably be expected to tolerate." Today is the 18th day of the Occupy Central movement. Many people have relayed to me that the present situation already far exceeds the extent which society "can reasonably be expected to tolerate". And, I must once again refer to a public statement made by Mr Benny TAI several times before. He said that Occupy Central participants would not resist arrest by the Police, and that the Police would be able to handle the situation without deploying too much police manpower. Deputy President, Benny TAI and I both went to Diocesan Boys' School, and he was a junior schoolmate of mine. But for the sake of public interest, and since members of the public all hope that Hong Kong can regain its determination of law-enforcement as a city taking pride in the rule of law, may I ask the Secretary for Security why the authorities have not yet taken any actions to arrest the three leaders of Occupy Central, particularly in view of the fact that they have pledged not to stage any resistance? The required arrest operations are very simple, and the unlawful assembly concerned has already reached the critical point of exceeding social acceptance. If we still refrain from taking the enforcement actions allowed by the law and from responding to people's general*

expectation concerning our determination of law-enforcement, it will be very difficult to govern Hong Kong in the future. I hope the Secretary can say a few words of explanation on why the three leaders have not been arrested so far.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I have also read the Court judgment quoted by Mr TIEN. Actually, in the first paragraph of my main reply to the first urgent question asked by Mr Frederick FUNG today, I also quote: "… the right to assembly, procession and demonstration was not unrestricted in that, for instance, if the assembly concerned caused unreasonable obstruction to the free passage along a public road, that is, exceeding what the public can reasonably be expected to tolerate …". I believe the overwhelming majority of all Hong Kong people are of the view that the Occupy Central movement and the actions of erecting road barricades have already exceeded the scope of tolerance, and the various social sectors have expressed their solemn condemnation. Occupy Central is the result of many different background causes. Notwithstanding this, the Police will definitely carry out in-depth investigation into any unlawful acts and take appropriate actions at appropriate junctures.

MR MICHAEL TIEN (in Cantonese): *The Secretary has not answered my question directly. The three leaders of Occupy Central have vowed not to stage any resistance. That being the case ― many people have also asked me this question ― why do the authorities still allow them to go unpunished by the law, and why haven't they taken any arrest actions so far? The reason behind my question is very simple. I am not talking about the arrest of several thousand people or anything else …*

DEPUTY PRESIDENT (in Cantonese): You have already stated your follow-up question.

MR MICHAEL TIEN (in Cantonese): … *I am only talking about the arrest of the three leaders of Occupy Central.*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I do not think that it is appropriate for me to give any reply concerning any specific individuals on this occasion of a Legislative Council meeting.

MR JAMES TO (in Cantonese): *Deputy President, in its reply on the 28 September incident, the Government says (I quote): " Senior officials of the SAR Government, including the Chief Executive and myself" ― that is, the Secretary for Security ― "as well as the Commissioner of Police, had been keeping a close watch on the whole picture and development of the event." Deputy President, my supplementary question is very simple. I understand that Mr LEUNG Chun-ying, the Chief Executive, already gave his authorization or tacit approval to the Police for using firearms if need be on that very day under a pre-formulated plan. Can the Government confirm this point?*

SECRETARY FOR SECURITY (in Cantonese): The Police have put in place very stringent control and principles in regard to the application of force. Any decisions on the actions to be taken will be based on these principles and the situations at the scenes. The tactical gear of police officers in the operation concerned was no different from the standard tactical gear.

On the evening of 28 September, the media reported some rumours which had it that the Police would use firearms and rubber bullets. Such rumours might have stemmed from the warning flag mentioned by Members just now. The Police immediately hastened to make a clarification, saying that this was simply not true.

MR JAMES TO (in Cantonese): *Deputy President, my supplementary question is not about the warning flag seen on that very evening. Rather, it is about the pre-formulated plan and the plan which the Chief Executive was briefed on. Around 3 pm that day, the press briefing held by the Chief Executive ended, and around 6 pm, the anti-riot squad was deployed. Is it true that the Chief Executive already gave his authorization or tacit approval for the use of firearms if need be?*

DEPUTY PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): I have said that the tactical gear of police officers in the operation concerned was the standard tactical gear, and that the criteria governing the application of force are consistently adopted at all times, including that very day and the time mentioned by Mr James TO.

DEPUTY PRESIDENT (in Cantonese): Since two Members intending to ask a supplementary question on the urgent questions are not in the Chamber, the urgent question time shall end here.

MR PAUL TSE (in Cantonese): *I have been observing. Deputy President, you should first ask whether any Members wish to ask a question because I understand that two Members are waiting for their turns. I do not know why some Members have left the Chamber and are not present. Can you exercise your discretion and further extend the urgent question time? Deputy President, I pressed the button just now with the intention of asking a question, but there was no response.*

DEPUTY PRESIDENT (in Cantonese): Mr Paul TSE, please state your supplementary question.

MR PAUL TSE (in Cantonese): *Sorry, Deputy President, because everybody is probably not quite so normal in behaviour by now. I believe that having stayed here to answer questions for so many hours, the Secretary must now be very tired. I just want to ask a very simple question. Hong Kong is facing a dire situation and on the verge of riot at the moment. I think all social sectors should exercise self-restraint and remain calm as much as possible. In their words and deeds, and even when moving any motions in the legislature, all should avoid fanning the flame and making exaggerated descriptions with the intention of fomenting trouble.*

Deputy President, many Members have described the incident last night as … The incident indeed warrants very great concern. But I must point out at the same time that this incident last night was just one of the many incidents that occurred in the past days. We must appraise the movement as a whole from a balanced perspective. It is especially important for us to note the backdrop that the whole movement has not yet come to an end, and it is also important for us to realize that any overly bitter criticisms will only make things worse in the present circumstances.

Therefore, we must not jump to any subjective conclusion too early in this regard, nor should we ask any questions that would make the Police … Questions about the clearance of occupied sites, for example, should not be asked despite our desire to know the answer. On the other hand, the incident last night can aptly show the critical points of all sides. The incident shows that even police officers with all their professional training may similarly come to the verge of their critical point. That being the case, while some say that we should play down the movement as much as possible, buy time and seek greater room for …

DEPUTY PRESIDENT (in Cantonese): Mr TSE, what is your supplementary question?

MR PAUL TSE (in Cantonese): *… there is also the opinion that we should act more decisively, so as to avoid any further deterioration of the situation and prevent both sides from wrestling with each other anymore.*

Deputy President, here is my question. Following the incident last night, will the Police or the Administration review the relevant strategy and define the critical point? And, are there any principles governing the conduct of operations?

SECRETARY FOR SECURITY (in Cantonese): Many thanks to Mr TSE for his question. The Police will closely and continuously monitor the development of the whole movement. As I have just said, the whole thing is extremely complicated and unprecedented. For this reason, the strategy of the Police must depend on the development of the situation.

Yesterday, for reasons unknown, some protesters suddenly rushed onto Lung Wo Road, blocking this major trunk route. Initially, the Police attempted to request the throng to return to the pavement, but the attempt was to no avail. Therefore, around 3 am, the Police had to take actions to reopen the road. This shows that very often, when an incident occurs, the Police must make prompt judgment on the spot and then proceed to take the required actions.

I can tell Mr TSE that the Police will do their utmost to maintain social order and uphold the law. No matter what happens, the Police will always take actions in this direction. In the past 10 days or so, many of our police colleagues had to work literally without any sleep and rest. They all have one aim only, the aim of enabling social order in Hong Kong to return to normal as soon as possible. To achieve this very aim, the efforts of the Police are required, but the support of the general public and the opinions of all stakeholders are of very great importance too. This may be the last question in the urgent question time today. Deputy President, please therefore permit me to say a few words more. Hong Kong is our home, my very home. I was born and brought up here, and I have gone through all the difficulties faced by Hong Kong over the past few decades. We should all treasure this very home of ours.

(THE PRESIDENT resumed the Chair)

MR CHAN CHI-CHUEN (in Cantonese): *President, point of order. In order to give time to those Members who could not return to ask their questions after pressing the "Request to speak" button just now, I request a headcount.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

Members may take it to my attention that a quorum is not present in the Chamber, but waiting for Members to return to ask questions is not a reason for requesting a headcount.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please ask your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *The Secretary is not present.*

PRESIDENT (in Cantonese): A government official will answer your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *No, he said just now that only eye-witnesses at the scene would know what happened last night.*

PRESIDENT (in Cantonese): Please state your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I was at the scene at that time, but he has left the Chamber. I …*

PRESIDENT (in Cantonese): Mr LEUNG, please state your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *Oh, you are back now. You have come back just in time, really. Secretary, your reply reminds me of the national anthem, which you people teach others to sing. There are these words in the anthem: "Rise! People who don't want to be enslaved! Erect a new Great Wall with our very flesh and blood …"*

PRESIDENT (in Cantonese): Mr LEUNG, please do not express any opinions irrelevant to your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *No. Frankly speaking, President, I do not think that you are a person who turns a blind eye to facts. You also watch television. Regarding that TVB news footage, Keith YUEN*

forbids the use of "punches and kicks" as a description. He thinks that one must not say "punches and kicks" because there were no punches. But there were kicks anyway. Punches constituted 30% and kicks 70% …

PRESIDENT (in Cantonese): Mr LEUNG, please state your supplementary question concisely.

MR LEUNG KWOK-HUNG (in Cantonese): *Okay. There were many kicks like this. I have known Ken TSANG for a long time. He has never resorted to violence. The Police describe themselves as open and aboveboard. Yes, they were indeed very "open and aboveboard", to the extent that they even beat up a person in public. Mr HUI was right in his words. Policemen still assaulted a member of the public even though they were being filmed.*

President, the role of the Legislative Council is to monitor the Government. No other organizations are given such a significant constitutional role to monitor the Government. No other organizations enjoy such a significant constitutional role. Even the IPCC does not …

PRESIDENT (in Cantonese): Mr LEUNG, please state your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *Okay. Secretary, suppose your subordinates (that is, policemen) are now surrounded by protesters, and punches and kicks are showered on them, would you think that the whole thing is right? As a matter of fact, yesterday, there really occurred an incident in which some policemen were surrounded by protesters. I was an eye-witness at the scene — you said just now that only eye-witnesses would know what happened. When policemen came rushing out for the first time, they ended up being surrounded by protesters. And, it was the protesters themselves who eventually released them. See, our Great Wall of resistance is just made up of mere flesh and blood, but once the Police gained the upper hand, once they had sufficient manpower, they misused …*

PRESIDENT (in Cantonese): Mr LEUNG, please stop expressing any more opinions and state your supplementary question immediately.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes. Secretary, you now tell us that post transfer is to be arranged as a means of tackling the problem. That those five or six policemen lost control of themselves was attributable to LEUNG Chun-ying's fault. Had he resigned earlier, nothing like this would have happened.*

PRESIDENT (in Cantonese): Mr LEUNG, you are still expressing your opinions. Please state your supplementary question immediately.

MR LEUNG KWOK-HUNG (in Cantonese): *No, I am actually saying that the policemen should be forgiven. Had LEUNG Chun-ying resigned earlier, nothing like this would have happened.*

PRESIDENT (in Cantonese): Please state your supplementary question immediately.

MR LEUNG KWOK-HUNG (in Cantonese): *Okay. President, please ask the Secretary one question for me. If the five, six, seven policemen — I do not know exactly how many — are retained by the Police Force to handle matters relating to the general public, does he think that he can still comply with the principle of impartial law-enforcement they talk about? He is simply giving them unfair protection. If they do not resign, should Andy TSANG do so? If Andy TSANG does not resign, should the Secretary do so? I will leave the answer to the Secretary. Can he …*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Can he get the point of my question? Let me put my question very simply. If the policemen involved — the policemen who punched and kicked the member of the public — are allowed to remain in the Police Force, should the Secretary stay on and still come here as an accountability official? Yes or no? Should he still have the face to do so? Let him give a reply!*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down immediately.

SECRETARY FOR SECURITY (in Cantonese): President, the Police have been handling all matters based on the same standards and yardsticks. I have repeatedly emphasized today that the Police are currently handling this incident fairly and impartially under their procedures. I do not think anyone will like to see the emergence of any conclusion before the incident is handled fairly and impartially under the established procedures. The underlying spirit of these procedures and the rule of law is cherished by our entire society.

(Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): Mr LEUNG, the Secretary has given his reply.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I wish to question him further. He says that all matters …*

PRESIDENT (in Cantonese): Mr LEUNG, after stating his supplementary question, a Member is not permitted to ask any further questions.

MR LEUNG KWOK-HUNG (in Cantonese): *… are handled fairly and impartially under the same procedures …*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *… I want him to answer …*

PRESIDENT (in Cantonese): Mr LEUNG, you are contravening the Rules of Procedure. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Is he saying that even in a different kind of situation, the handling approach we saw yesterday would be adopted all the same …*

PRESIDENT (in Cantonese): Mr LEUNG, stop speaking immediately. Mr LEUNG, I warn you once again that if you do not stop, I will have to order you to leave the Chamber. Please sit down immediately.

MR LEUNG KWOK-HUNG (in Cantonese): *In that case, what happened yesterday is bound to occur again. All matters … I want to ask further …*

PRESIDENT (in Cantonese): Mr LEUNG, sit down immediately.

MR LEUNG KWOK-HUNG (in Cantonese): *I will stop now. You do not allow Members to ask any further questions.*

MR GARY FAN (in Cantonese): *President, Occupy Central has been going on for more than 10 days. As we can observe, in their enforcement actions against the defenceless and peaceful assembly participants, the Police have used shields, tear bombs, batons and pepper spray, but they have on the other hand looked on anti-Occupy Central people with folded arms, condoning the assaults of peaceful assembly participants by triad elements.*

President, here is my supplementary question for the Secretary. Since his assumption of office, Chief Executive LEUNG Chun-ying has repeatedly, consistently and intentionally sought to split our society and set the people

against the people. The more divisive our society becomes, the more he thinks that his position is more secure than before.

May I ask the Secretary whether the SAR Government has deliberately allowed the use of excessive violence by the Police, so as to goad peaceful assembly participants, bring forth a state of uncontrollable chaos, and enable the People's Liberation Army to march into the city and end the whole movement with bloodshed? Is it the intention of the Government to bring forth such a situation? This is my question for the Secretary.

PRESIDENT (in Cantonese): Mr FAN, you have already stated your supplementary question. Please sit down.

SECRETARY FOR SECURITY (in Cantonese): President, throughout the 18 days of Occupy Central, the Police have sought to tackle the movement with an attitude of immense restraint, favouring neither the Occupy Central side nor the anti-Occupy Central side. For instance, in October …

(Mr Gary FAN yelled)

PRESIDENT (in Cantonese): I must remind Members once again that they must abide by the provisions of the Rules of Procedure when they speak. If any Members yell in their seats, I shall order them to leave the Chamber. Secretary, please continue with your reply.

SECRETARY FOR SECURITY (in Cantonese): On the night of 3 October, with nothing but just their own bodies of vulnerable flesh and blood, police officers struggled to open a way in the crowd for escorting away those demonstrators who wanted to leave. This is a fine example. In this incident in Mong Kok, and even the incident in Admiralty which Members are talking about, the Police invariably managed to take timely enforcement actions, arresting a number of people. This can show fully that Mr Gary FAN's guess just now is unfounded.

PRESIDENT (in Cantonese): Ms Claudia MO, please state your supplementary question.

(Mr Gary FAN stood up)

MR GARY FAN (in Cantonese): *He has not answered my supplementary question. Is there any deliberate attempt to create a state of chaos by allowing the Police to misuse their power, so that the People's Liberation Army can take actions to clean up the mess? Just say "yes" or "no".*

PRESIDENT (in Cantonese): Mr FAN, the Secretary has already given his reply.

MS CLAUDIA MO (in Cantonese): *President, up to this afternoon, the question time has run on for totally 257 minutes, or more than four hours. One really feels that no matter which Member raises a question, the Secretary will always give the same reply, the reply that the Hong Kong Police are loyal and dedicated, determined to protect the public, and fair in handling all matters. The reply is so long. But is it convincing at all?*

PRESIDENT (in Cantonese): Ms MO, please state your supplementary question.

MS CLAUDIA MO (in Cantonese): *When I was in the Dining Hall just now, I heard some Members speak on and on for a long time. But no one raised any query. How come I am already asked to state my supplementary question right away when I have spoken for less than 30 seconds only?*

PRESIDENT (in Cantonese): I have always reminded Members to state their supplementary questions straight away and refrain from expressing any long thoughts beforehand.

MS CLAUDIA MO (in Cantonese): *President, I am not talking about you. The Deputy President had the Chair just now, and he was totally lenient. He allowed Members to speak practically as long as they wanted.*

PRESIDENT (in Cantonese): Ms MO, please state your supplementary question.

MS CLAUDIA MO (in Cantonese): *Secretary … Would the President please ask the Secretary one question for me? About the use of excessive violence last night ― actually, we should not say "excessive violence". We should say "misuse of power and extra-judicial punishment", because extra-judicial punishment itself is something evil. We should not say "excessive violence" because violence itself is something evil. How can we talk about "excessive violence" in that case? We should not say "excessive extra-judicial punishment" either. We should say "misuse of power and extra-judicial punishment" instead. And, the incident concerned involved police officers. The Secretary has kept talking about fair handling. But will he consider the idea of immediately … According to the Secretary, the police officers concerned have been transferred away from their current positions. Have they been suspended? I forget the word for "suspend" in Chinese ― it should be "停職". Have they been suspended or simply transferred? This is an important question. Suppose they originally served on Hong Kong Island and have just been transferred to Kowloon West, then there will be a big problem.*

I also wish to remind the Secretary of another point …

PRESIDENT (in Cantonese): Ms MO, you have already stated your supplementary question. Please let the Secretary give his reply.

MS CLAUDIA MO (in Cantonese): *… No, let me talk about the Secretary's words about police officers' bodies of vulnerable flesh and blood. Naturally, many of us do love our police officers. But the Secretary must not forget that the bodies of protesters and members of the public are likewise bodies of vulnerable flesh and blood.*

SECRETARY FOR SECURITY (in Cantonese): The bodies of all people are bodies of vulnerable flesh and blood. That was why all actions of the Police aimed to avoid any possible scuffles and reduce the chance of injuries at the scene.

Today, many Members have been focusing their questions on the incident that happened in the small hours. The reply I have given to Members is very clear. Let me now repeat it. The Police will definitely carry out impartial investigation into this incident. Should any unlawful acts be detected, the Police will certainly take actions as required by the law. Those police officers suspected of having a part in the incident will be, in the meantime, transferred away from their current positions.

MS CLAUDIA MO (in Cantonese): *President, I really want to know whether they have been transferred or suspended.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): President, I believe that what I said just now is already very clear.

MR MA FUNG-KWOK (in Cantonese): *President, the occupation of streets has persisted for more than 10 days, or nearly three weeks. Since 28 September, the Police have been charged at incessantly, but they have managed to maintain their professionalism and exercise immense restraint most of the time and on most occasions. This deserves our commendation.*

In many instances, they have been cursed unreasonably and given uncivilized treatment, such as denial of medical consultation by a doctor and teachers' bullying of their children in school, but they have remained dedicated to their duties all the same, offering protection to the general public and even those law-breakers who occupy and obstruct our streets unlawfully.

PRESIDENT (in Cantonese): Please state your supplementary question.

MR MA FUNG-KWOK (in Cantonese): *Last night, we saw the gathering of crowds and obstruction of streets once again, and we also observed that the Police could once again react in good time to allow traffic to resume normal. I*

understand that front-line police officers have been under unspeakable pressure and are physically and mentally exhausted by now …

PRESIDENT (in Cantonese): Mr MA, please state your supplementary question.

MR MA FUNG-KWOK (in Cantonese): *Here is my supplementary question. While expressing my support of the Police and saluting them, I also want to know whether the authorities have allocated any extra resources for the provision of psychological and emotional counselling targeting on front-line law-enforcement police officers, so as to enable them to constantly maintain professional excellence, and prevent any individual police officers from reacting radically to prolonged provocation and insults.*

SECRETARY FOR SECURITY (in Cantonese): The Police have made corresponding and appropriate arrangements in this regard.

PRESIDENT (in Cantonese): End of the fifth urgent question and the supplementary questions. We will now proceed to the six oral questions in this meeting. First question.

ORAL ANSWERS TO QUESTIONS

Interpretation of "all the members of the Legislative Council" in Annexes I and II to Basic Law

1. **DR FERNANDO CHEUNG** (in Cantonese): *Article 7 of Annex I and Article III of Annex II to the Basic Law provide respectively that if there is a need to amend the method for selecting the Chief Executives and that for forming the Legislative Council for the terms subsequent to the year 2007, such amendments must be made "with the endorsement of a two-thirds majority of all the members of the Legislative Council". Regarding the interpretation of "all the members of the Legislative Council", the former Chief Secretary for Administration said in*

his statement on the "Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012" delivered at the Legislative Council meeting on 14 April 2010 that after detailed study by the Department of Justice and careful consideration from different angles, the Government considered that the entire authorized membership of the Legislative Council, that is, the 60 Legislative Council Members stipulated in Article I(1) of Annex II to the Basic Law, rather than the number of the Legislative Council Members in office, should be taken as the basis for calculating "a two-thirds majority of all the members of the Legislative Council" (the interpretation in 2010). In this connection, will the Government inform this Council:

(1) whether the interpretation of "all the members of the Legislative Council" by the Government of the current term is consistent with the interpretation in 2010; if it is not, of the interpretation by the Government of the current term and the circumstances under which such interpretation applies;

(2) whether it has studied if the absence of Members due to involuntary reasons (such as being detained by law-enforcement agencies) when the motions to amend the methods for selecting the Chief Executive in 2017 and for forming the Legislative Council in 2016 are being voted on in the Legislative Council will affect the number of Members actually meant by "all the members of the Legislative Council" and may thus affect the voting result of such motions; if it has, of the outcome; and

(3) how the authorities will deal with the situation in which the Government and the President have different understanding of "all the members of the Legislative Council" and whether the Government will take the understanding of the President as the correct one; if they will, of the reasons; if not, the justifications for that, and whether the Government will take any measures, such as seeking an interpretation of "all the members of the Legislative Council" from the Standing Committee of the National People's Congress (NPCSC)?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, according to Article 7 of Annex I to the Basic Law, if there is a need to amend the method for selecting the Chief Executive for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the NPCSC for approval. The reply to the question raised by Dr CHEUNG is as follows:

(1) and (2)

The HKSAR Government considers that "all the members of the Legislative Council" as stated in Article 7 of Annex I to the Basic Law should refer to the entire authorized membership of the Legislative Council, irrespective of any vacancies.

In fact, the HKSAR Government had examined the issue in detail in 2010. At the Legislative Council meeting on 14 April 2010, the then Chief Secretary for Administration explained clearly that the Administration reached its conclusion on the matter after carefully considering the relevant provisions of the Basic Law, the purpose of setting a quorum requirement and the relevant case law in overseas jurisdictions. On the whole, such information supported the interpretation of "all the members of the Legislative Council" as the entire authorized membership of the Legislative Council. In other words, according to Article I(1) of Annex II to the Basic Law, given that the number of authorized Members of the Legislative Council at that time was 60, "a two-thirds majority of all the members of the Legislative Council" would mean 40 Members. Otherwise, in an extreme situation, for example, where a considerable number of vacancies have arisen, resulting in relatively few Members remaining, these Members would be able to exercise all the powers of the Legislative Council. This will not be reasonable and will not be consistent with one of the important purposes for setting a quorum requirement, namely, to avoid the situation where only a few Members will be able to make decisions for the whole Council, resulting in such decisions not receiving necessary and appropriate respect.

Hence, given that the number of authorized Members of the current term Legislative Council is 70, we consider that the requirement of "endorsement of a two-thirds majority of all the members of the Legislative Council" to amend the method for selecting the Chief Executive as provided in Article 7 of Annex I to the Basic Law should mean that such amendments could only be made with the endorsement of at least 47 Members of the Legislative Council.

(3) The HKSAR Government would not speculate how the President of the Legislative Council may interpret "all the members of the Legislative Council".

DR FERNANDO CHEUNG (in Cantonese): *President, in the event that some Members have resigned and the relevant by-election has not yet completed, will it affect the basis of calculation that the number of authorized Members is 70?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I can reaffirm here that regarding the interpretation of "all the members of the Legislative Council", our understanding is that it means all of the 70 Members, irrespective of any vacancies.

MR STEVEN HO (in Cantonese): *Which other provisions in the Basic Law also refer to "all the members of the Legislative Council"? As this oral question raised today is about the definition of "all the members of the Legislative Council", should the same definition be applied to other Basic Law provisions which refer to "all the members of the Legislative Council". If some members of the public find this explanation given by the Government unsatisfactory and apply for a judicial review just like some Members did, do the courts of Hong Kong have the power to give an explanation? Or is it necessary for the courts to seek an interpretation from the National People's Congress (NPC) before making judgment?*

PRESIDENT (in Cantonese): Mr HO, you have raised a number of questions. I am obliged to remind Members that Members asking supplementary question can only raise one question. Secretary, please give a reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, please allow me to reply to the last part of the question raised by the Member first. For cases of judicial review received by the Court, a judgment will be made with reference to the relevant laws and precedent cases. Should there be any doubts relating to the interpretation of Basic Law provisions, I believe the Court would certainly make the relevant decision pursuant to the procedures and interpretation as stated in Article 158 of the Basic Law. If there is a need to seek certain explanation from the NPC, the relevant provisions for that purpose have been stipulated under Paragraph 3 of Article 158 of the Basic Law. So far one precedent case has been established.

According to the information I have, other Basic Law provisions which refer to "all the members of the Legislative Council" at least include Articles 49, 52, 67, 73, 75 and even Article 159 and Annex I, which has been mentioned earlier. As I explained just now, under these provisions, the endorsement from 47 Members should be obtained. The view of the Secretary for Justice is that, for instance, as there are 70 Members in the current term of the Legislative Council, "all the members of the Legislative Council" referred to in other Basic Law provisions should be interpreted as 70 Members, which I have explained earlier.

IR DR LO WAI-KWOK (in Cantonese): *President, in the main reply given by the Secretary, I notice a very unusual remark: "The HKSAR Government would not speculate how the President of the Legislative Council may interpret 'all the members of the Legislative Council'". The Secretary has just given a precise reply as to the definition of "all the members of the Legislative Council". Does this remark mean that he would not speculate whether this definition will be adhered to and followed through in the Council meeting of the Legislative Council? President, this is not the time to ask you a supplementary question, but I have a question in my mind: Is the President's understanding all along consistent with that of the Secretary? If the President does not want to make a response here, perhaps the Secretary can give a reply.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, according to the information I have and as I mentioned in my main reply, given the resignation of several Members in 2010 and in response to the invitation from the Committee on Rules of Procedure of the Legislative

Council, the SAR Government had given its views in April 2010 on the definition of quorum for the Council to the Legislative Council for its reference. I believe the relevant documents have been well kept in the archive of the Legislative Council. I noticed that the then Committee on Rules of Procedure of the Legislative Council and the Government both considered that speaking of "all the members of the Legislative Council", particularly under the condition stipulated in Article 75 of the Basic Law, it should be interpreted as all of the 60 seats of the Legislative Council of that term. Even if some seats were left vacant, that number should still be used as the basis for counting quorum. In other words, the Government and the then Committee on Rules of Procedure of the Legislative Council had the same understanding. They were not necessarily in conflict.

MR NG LEUNG-SING (in Cantonese): *The main reply mentioned that the SAR Government had examined the issue in detail. It also gave some explanation by citing the example that at the time when the number of Members was 60,"a two-third majority" would mean 40 Members. In addition, it mentioned that in the event where a considerable number of vacancies had arisen, a few Members might be able to dominate the Council, which would be an unreasonable outcome. My question for the Government is whether it will generate proper documentation for the conclusions of its study as the basis for the interpretation of "all the members of the Legislative Council" referred to in the Basic Law?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I said just now, in 2010, in response to the invitation from the Committee on Rules of Procedure of the Legislative Council, the SAR Government had provided the conclusions after studying relevant overseas scenarios and cases, as well as our understanding of the Basic Law. The Committee on Rules of Procedure of the Legislative Council has kept such information in its documentation. If Mr NG is interested, I can point out the relevant document to the Secretariat after the meeting.

MR PAUL TSE (in Cantonese): *President, I believe Members are aware that motions requiring all the Members of the Legislative Council to vote on, including the one to amend the method for selecting the Chief Executive, are very important ones. Of course, members of the public or even the Government may seek an interpretation of the final judgment through judicial means, and during the process there may be a need to seek a view from the NPC. We understand*

that seeking an interpretation from the NPC is no casual decision, but under the circumstance that we have to choose the lesser of two evils, may I know whether the Government has assessed what are the crucial factors or risks under which seeking an interpretation from the NPC is timely and necessary, so that doubts can be dispelled expeditiously, all the pain and troubles can be avoided and the final decision can be reached without delay?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): It came to my attention that this issue had been discussed in the community and the Council in 2010, and the Council had correspondence on the matter. At that time, both the Government and the Legislative Council considered seeking an interpretation from the NPC unnecessary. Regarding the conclusions and understanding in 2010, we still maintain that seeking an interpretation from the NPC is unnecessary.

MR FREDERICK FUNG (in Cantonese): *President, in the last paragraph of part (2) of the main reply, the Secretary indicates clearly that "such amendments could only be made with the endorsement of at least 47 Members of the Legislative Council". Nonetheless, his replies to Members' supplementary questions give me a feeling that he keeps a leeway, which is the option to seek an interpretation from the NPC when there are genuine needs. As Members are aware, the legal sector and a considerable number of Members regard seeking an interpretation of Basic Law provisions from the NPC the most undesirable step to take. Will the Secretary give a reply to my supplementary question in this Council by affirming that a "two-third majority" means at least 47 Members, which is in line with what he says in the main reply?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I can affirm, to Mr FUNG, that "the endorsement of a two-thirds majority of all the members of the Legislative Council" which I refer to in the main reply means "the endorsement of at least 47 Members of the Legislative Council", and this is the stance of the SAR Government.

PRESIDENT (in Cantonese): Second question.

Decision of Standing Committee of the National People's Congress on Issues Relating to Selection of Chief Executive by Universal Suffrage

2. **MR CHARLES PETER MOK** (in Cantonese): *President, according to the Interpretation by the Standing Committee of the National People's Congress (NPCSC) of Article 7 of Annex I to the Basic Law adopted on 6 April 2004 (the 2004 Interpretation), the Chief Executive of the Hong Kong Special Administrative Region (SAR) shall make a report to NPCSC as regards whether there is a need to amend the method for selecting Chief Executive; and then NPCSC shall make a determination. The bills on the amendments to the method for selecting Chief Executive shall be introduced by the SAR Government into the Legislative Council. However, after considering the relevant report submitted by Chief Executive, NPCSC made a decision on 31 August of this year, which includes that, when the selection of Chief Executive is implemented by the method of universal suffrage, the provisions for the composition of the nominating committee shall be made in accordance with the composition of the existing Election Committee; the nominating committee shall nominate two to three candidates; and each candidate must have the endorsement of more than half of all the members of the nominating committee (the decision on the nominating committee). In this connection, will the Government inform this Council:*

(1) given that the 2004 Interpretation mentions only that NPCSC shall make a determination as regards whether there is a need to amend the method for selecting Chief Executive, but not that NPCSC has the power to decide how the method for selecting Chief Executive shall be amended, whether it has studied if NPCSC's decision on the nominating committee is legally binding; if the study outcome is in the affirmative, of the Basic Law provisions based on which the decision was made;

(2) given the stipulation in the 2004 Interpretation that the bills on the amendments to the method for selecting Chief Executive shall be introduced by the SAR Government into Legislative Council, whether it has studied if NPCSC's decision on the nominating committee has contravened the principles of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", and whether the decision has contravened Annex I to the Basic Law and the 2004 Interpretation; if it has, of the outcome; and

(3) *whether it has studied if NPCSC's decision on the nominating committee complies with Articles 25, 26 and 39 of the Basic Law; if it has, of the outcome?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, on 31 August 2014, the NPCSC adopted the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 (Decision). The Decision of the NPCSC marks the completion of the second step of the "Five-step Process" of constitutional development, and formally determined that universal suffrage for the Chief Executive election through "one person, one vote" may be implemented starting from 2017. Our reply to the questions raised by Mr MOK is as follows.

(1) and (2)

The NPCSC is the permanent body of the highest organ of state power. The Decision adopted by the NPCSC on 31 August is made in accordance with the Basic Law and the Interpretation by the Standing Committee of the National People's Congress adopted on 6 April 2004 of Article 7 of Annex I and Article III of Annex II to the Basic Law (2004 Interpretation). It is a solemn and legally effective decision.

Pursuant to the 2004 Interpretation, the "Five-step" constitutional process must be followed in amending Annex I to the Basic Law regarding the method for selecting the Chief Executive. According to this constitutional process, the Chief Executive shall make a report to the NPCSC as regards whether there is a need to make an amendment to the method for selecting the Chief Executive; and the NPCSC shall, in accordance with the provision of Article 45 of the Basic Law, make a determination in the light of the actual situation in the Hong Kong Special Administrative Region (HKSAR) and in accordance with the principle of gradual and orderly progress. The Decision is the second step of the "Five-step" constitutional process.

The HKSAR is a special administrative region established by the State in accordance with Article 31 of the Constitution of the People's Republic of China (Constitution). Article 31 of the Constitution stipulates that the systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of specific conditions. Article 62(13) of the Constitution stipulates that the National People's Congress exercises the function and power to decide on the establishment of special administrative regions and the systems to be instituted there. Through the enactment of the Basic Law, the National People's Congress prescribes a unique system to be practiced in Hong Kong. Article 12 of the Basic Law provides that "[t]he Hong Kong Special Administrative Region shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government." Article 15 provides that "[t]he Central People's Government shall appoint the Chief Executive and the principal officials of the executive authorities of the Hong Kong Special Administrative Region in accordance with the provisions of Chapter IV of this Law." Article 45 provides that "[t]he Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government." According to the "Five-step Process" laid down by Annex I to the Basic Law and the 2004 Interpretation, any amendment to Annex I to the Basic Law regarding the method for selecting the Chief Executive, after obtaining the endorsement of a two-thirds majority of all Members of the Legislative Council and the consent of the Chief Executive, requires the ultimate approval of the NPCSC. This shows that the Central Authorities have the constitutional powers and responsibilities to determine the systems to be implemented in the HKSAR, including the model of political structure for the HKSAR; in amending the method for selecting the Chief Executive, the Central Authorities have the ultimate powers, including in determining the timetable, model and design of the method for selecting the Chief Executive by universal suffrage.

As Mr LI Fei, Deputy Secretary-General of the NPCSC, explained at the briefing session on 1 September, "the implementation of universal suffrage for Chief Executive election involves amendment

to the relevant provisions in Annex I to the Basic Law. According to Annex I to the Basic Law and its relevant Interpretation, the power of the Central Authorities to determine the amendment to the method for selecting the Chief Executive is exercised by the NPCSC. The proposed amendment to the method for selecting the Chief Executive to be submitted to the NPCSC for approval in the future would be endorsed by a two-thirds majority of all the Members of the Legislative Council and should obtain the consent of the Chief Executive. At that stage, the NPCSC could only decide to approve or not approve the amendment, but could not make any amendment to the amendment proposal. Therefore, the NPCSC could only exercise its power on how to amend the method for selecting the Chief Executive in order to implement universal suffrage at the stage of the decision. This was an important reason for the NPCSC in its decision laying down provisions on certain core issues concerning the method for selecting the Chief Executive by universal suffrage."

(3) The Decision of the NPCSC sets out a clear framework on the method for selecting the Chief Executive by universal suffrage. The Decision has been made strictly in accordance with the Basic Law and constitutional process, and is undisputedly legally effective. The HKSAR Government will launch the next round of public consultation on the method for selecting the Chief Executive by universal suffrage at an appropriate juncture. The HKSAR Government sincerely hopes that in the next stage, all sectors of the community would seize the opportunity and make full use of the room for discussion under the Basic Law and the Decision of the NPCSC, so as to seek common ground and forge consensus in a rational and pragmatic manner, in order to realize the goal of selecting the Chief Executive by universal suffrage through "one person, one vote" in 2017.

MR CHARLES PETER MOK (in Cantonese): *President, this should have been a crucial question as I would very much like to help the SAR Government come up with a key to ending the current political crisis or even the Occupy Central movement. Political issues must be resolved by political means, but honestly, the proposal that can possibly emerge under the NPCSC framework will definitely fail to gain passage in the Legislative Council. Hence, we have to actively search for a solution. The Secretary, however, has not provided any*

direct answers to the three queries put forward in the main question, which involve issues of utmost constitutional importance.

President, due to the time constraint, I can only raise one follow-up question. I am going to follow up on part (3) as it is the most direct question. The question I want to ask is simple: Does the NPCSC's decision comply with Articles 25, 26 and 39 of the Basic Law? The first two articles provide that all Hong Kong residents shall be equal before the law and that permanent residents of the Hong Kong SAR shall have the right to vote and the right to stand for election. When taken together, the two articles in my opinion mean that the right to vote and the right to stand for election should be equal. Article 39 provides that the provisions of the International Covenant on Civil and Political Rights shall remain in force and shall be implemented through local laws. I just want to ask if it complies with these three articles. Could the Secretary give me a direct answer without evading the question like what he has done in part (3) of the main reply? Furthermore, has the SAR Government conducted a study itself to determine if the Decision in question complies with the abovementioned provisions?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): The Decision of the NPCSC is made in accordance with the overall stipulation and constitutional procedures contained in the Basic Law. I notice that the structure of the Basic Law has been thoughtfully designed to the effect that Chapter III talks about the fundamental rights and duties of Hong Kong residents, and many of the abovementioned rights and duties are general descriptions applicable to different areas.

As to the political structure, Chapter IV in particular set out in detail the specific legal arrangements relevant to the Chief Executive and formation of the executive authorities, the legislature, the judiciary, and so on, with the methods laid down in Annex I and II. Hence, under the situation where general principles apply, the specific arrangements have to follow the specific stipulations. I notice that the Decision of the NPCSC allows us to implement the third step according to the appropriate timetable, that is, the SAR Government shall be allowed to introduce a bill to the Legislative Council for the latter's consideration.

MR CHARLES PETER MOK (in Cantonese): *President, the Secretary has not answered my question. Does it comply with the relevant provisions?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I have already replied that the Decision of the NPCSC complies with the various stipulations contained in the entire Basic Law.

MR MA FUNG-KWOK (in Cantonese): *The Decision adopted by the NPCSC on 31 August provides Hong Kong with the chance to elect the Chief Executive by universal suffrage in 2017. Whether universal suffrage can actually be implemented, however, hinges on the further development of the "Five-step Process". I would like to ask the SAR Government here if any mechanism is in place within the "Five-step Process", in your understanding, which allows the SAR Government to submit supplementary report or views to the NPCSC so as to update them with the latest developments in political reform in the SAR Government? If there is, would the SAR Government consider doing so, or does the SAR Government consider it necessary to do so?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Having regard to similar sayings, views and suggestions recently surfaced in the community, I have read again the Interpretation adopted by the NPCSC on 6 April 2004. I am of the view that the Chief Executive has completed the first step of the "Five-step Process" and the NPCSC has completed the second step. What has to be dealt with now is the third step, that is, the SAR Government has to introduce to the Legislative Council a bill to amend Annex I for the Legislative Council to consider whether the bill should be passed.

A more layman and less than vigorous way to say this is that I consider a 2A, 2B or 3A, 3B step non-existent in the "Five-step Process". The second step is the second step, while the third step is the third step. Hence, if we have to strictly implement the "Five-step Process", I am afraid there might not be any procedural arrangement which allows us to conduct the kind of work as mentioned by Mr MA Fung-kwok just now.

DR PRISCILLA LEUNG (in Cantonese): *President, the political reform of Hong Kong must be implemented in accordance with the Basic Law and NPCSC's decision. Despite criticisms lodged by the opposition that the Decision adopted by the NPCSC on 31 August was relatively conservative, it remains constitutional and legal. We also hold that the development from quantitative change to qualitative change should abide by the principle of gradual and orderly process. However, in view of the actual situation, we can see that the climate in Hong Kong is very tense now and there are suggestions in the community proposing a discontinuation with the work carried out under Annex I, so as to allow different sectors of the community to discuss the matter afresh. But this suggestion might as well delay the relevant process altogether. I would like to ask the Government about their views on these suggestions.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I reckon that the issue of political reform has been put under discussion for a number of years. The work related to the 2017 implementation of the universal suffrage timetable has actually started for nearly one-and-a-half years, if we start counting from the informal communications that we made. Different proposals of various types were put forward in many occasions in the past. During the first-round consultation, there were indeed a lot of people suggesting a large number of proposals which had all been made public by us. Before and after the conclusion of the consultation, Central Government officials vested with the responsibility for political reform met representatives from various sectors of the community, and especially the Legislative Council Members, two or three times for face-to-face exchanges. They should by now have a good grasp of the different proposals and their compliance with the provisions of the Basic Law, and the NPCSC made the Decision on 31 August as well.

Therefore, I believe that the task before us at present is to try to create more room on the basis provided by the Decision, so as to allow more people to participate and more chances for those interested in politics to take part. This is the objective and direction of our second-round consultation.

DR PRISCILLA LEUNG (in Cantonese): *Sorry, my supplementary question is that I would like to know the Secretary's views on the suggestion for a discontinuation with the amendment of Annex I and whether there is enough time available for restarting consultation.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the answer I provided to Mr MA Fung-kwok's supplementary question can similarly be used to answer Dr LEUNG's supplementary question. There is no mechanism within the "Five-step Process" which stops the second step from proceeding, as the third step naturally follows the second step. The third step is for the executive authorities to submit a proposal to the Legislative Council for consideration in the form of a bill.

MR JAMES TO (in Cantonese): *President, I would also like to follow up on the supplementary question put forth by Mr MA Fung-kwok. The Secretary told us just now that he had revisited the question by studying the documents again, so as to see if there could be a step 2A or 2B in the "Five-step Process". This is his own research.*

What I would like to ask is: First, does the comments made by the Secretary just now represent that of the SAR Government as a whole? Second, if those are indeed the comments of the entire SAR Government, have the authorities consult the State Council, the NPCSC and its relevant committees before making such a conclusion, so as to verify the accuracy of this understanding of the Secretary Raymond TAM or the SAR Government? In other words, is submitting a supplementary report to the NPCSC to facilitate its making a different decision definitely out of the question? Or, is there another viable alternative, in which only the NPCSC may revise or amend the relevant decision according to Article 62(11) of the Constitution?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, with regard to the first part of the supplementary question, as I am the public officer representing the SAR Government in giving replies in this question session, the answers I provided are certainly representative of the Government's views and position. Moreover, as what I have said in reply to Mr MA Fung-kwok's supplementary question, the steps described by the Interpretation of the NPCSC adopted on 6 April 2004 should be clear enough.

Regarding Mr James TO's question, which is whether I have consulted the relevant organizations, such as the NPCSC, its Legislative Affairs Commission or its General Office, before answering this question, the answer is no. And I consider such consultation unnecessary. This is not the first time Hong Kong

goes through this "Five-step Process"; this is in fact the third time. During the current and previous implementation of the process, relevant officials from the Central Government have repeatedly explained this constitutional procedure which has now become quite clear.

MR CHUNG KWOK-PAN (in Cantonese): *President, in part (3) of the main reply, the Secretary said that the SAR Government sincerely hoped that in the next stage, all sectors of the Hong Kong community can seize the opportunity and make full use of the room for discussion under the Basic Law and the Decision of the NPCSC. I would like to ask: From the Government's perspective as of now, what kind of room is actually available for discussion, with a view to reach a conclusion to the current protest?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I believe that the forthcoming second-round consultation should help decide on the implementation of universal suffrage in electing the Chief Executive in 2017. I hope that we can keep our focus on this issue. With regard to the problem of road blockage, this Council has separately spent a good number of hours on resolving it. This is point 1.

Second, regarding the room for discussion. As I briefly highlighted last Sunday, we had found that, during the Government's internal preparation for the consultation paper, there were at least a number of aspects raised over the previous period which were worthy of further exploration. For instance, can there be an arrangement for people to comment on probable candidates during the nomination by the nominating committee? The nominating committee might also adopt people's views more systematically when making a decision on the nomination of candidates. This is first kind of possibility.

The second consideration is on the formation of the nominating committee. Is there room for representatives from a wider spectrum of society to participate while maintaining its size at 1 200 and keeping the four sectors intact? We have made a special reference of women and youth representatives in the first-round consultation and will continue to make exploration in this regard.

Third, with regard to electing the Chief Executive by universal suffrage on a "one person, one vote" basis, we have yet to decide whether a "relative majority" or an "absolute majority" voting system should be adopted and how to determine the winner among the two or three candidates, as we have looked into during the first-round consultation. If a "relative majority" system is to be adopted, perhaps only one round of voting is needed. However, if an "absolute majority" system is used, there might not be any candidate who can secure an absolute majority during the first-round of voting. Then, should a second-round of voting be conducted? Or, should a preferential voting system be used to save the need for a second-round, as suggested by some?

All the questions above will directly affect people's expression of wish as well as the result of the election, and probably it is necessary for these questions to be brought up in the second-round consultation. We are now at the final stage of the preparation for consultation papers and there are most likely some other specific issues under the NPCSC's Decision framework which call for our further examination, apart from the two or three points briefly mentioned just now.

MR LEE CHEUK-YAN (in Cantonese): *President, I think the Secretary has not at all responded to the crux of the question. We are asking if the Decision of the NPCSC is an "illegal construction" which contravenes the "Five-step Process" prescribed by the NPCSC. The Secretary has indicated the first step of the Process in the main reply as "the Chief Executive shall make a report to the NPCSC as regards whether there is a need to make an amendment to the method for selecting the Chief Executive". And the NPCSC should only make a determination on whether an amendment is needed. However, on top of determining whether an amendment is necessary, now that the NPCSC has also made a decision to "shut the door" and on how the amendment should be made. Hence, the Secretary has not given a reply to the crux of the entire main question, that is, whether the Decision by the NPCSC on how to make an amendment is itself an "illegal construction" which contravenes the "Five-step Process" and the decision of the Basic Law.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, when making an Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law on 6 April 2004, the NPCSC has also

provided an Explanation on the draft to further elucidate the Interpretation. Let me cite some lines from it to answer the question raised by Mr LEE Cheuk-yan.

The Explanation issued on 6 April 2004 contains the following lines: "The Hong Kong Special Administrative Region is a local administrative region directly under China's Central People's Government, which enjoys a high degree of autonomy. The high degree of autonomy of Hong Kong Special Administrative Region comes from the authorization by the central leadership. The political structure of the Hong Kong Special Administrative Region is prescribed by the Hong Kong Basic Law which was enacted by the National People's Congress. China is a unitary state which does not practise federal system, and a local government is not vested with powers to decide or alter its political structure. The development of the political structure of Hong Kong involves the relationship between the Central Authorities and the SAR, and must progress within the framework of the Hong Kong Basic Law. The amendments to the method for selecting the Chief Executive and the method for forming the Legislative Council, the bills to the Legislative Council, and the procedures of voting on bills are important questions for the development of the political structure of Hong Kong. The decision as to whether any amendment is needed and how the amendment is to be made rests with the Central Authorities. This is an extremely important principle established by the Constitution and the Hong Kong Basic Law, and is inherent in the policy of 'one county, two systems'".

President, I think the last two sentences of the Explanation can be used to answer Mr LEE Cheuk-yan's supplementary question raised just now.

MR LEE CHEUK-YAN (in Cantonese): *President, he has not answered whether it is an "illegal construction". He was just using an "illegally constructed" Explanation to illustrate another "illegal construction". Would the Secretary please return to the basic question, using provisions clearly written in the Basic Law to clarify whether the move is a breach of the original provisions of the Basic Law?*

PRESIDENT (in Cantonese): The Secretary has given a reply. I would like to remind Members once again that this is not a debate session. If Members disagree with the Secretary's reply, please raise your opinions on other occasions. We have spent almost 25 minutes on this question. Third question.

Termination of Telecommunications Service Contracts

3. **MR PAUL TSE** (in Cantonese): *President, it has been reported that earlier on, a 19-year-old teenager, suspected to be aggrieved by the continued demand for fee payment by the i-Cable Communications Limited (i-Cable) even after his family member had terminated the telecommunications service contract (the contract) with the company, stormed into the Cable TV Tower with knives and demanded to meet the company's management. A security guard and two staff members of i-Cable were injured in the incident. Subsequent to that, there have been a spate of media reports about disputes over termination of service contracts with the company. Some editorials even criticized the company and other telecommunications service operators (TSOs) for "abusing their power to bully customers" and "behaving like street bullies", and the Office of the Communications Authority (OFCA) for "harbouring network operators and thus being the biggest accomplice". I have also repeatedly received from members of the public complaints and requests for assistance in relation to termination of contracts with i-Cable. In this connection, will the Government inform this Council:*

(1) whether it has studied the reasons why many members of the public have complained about and the media have one after another criticized the arrangements for contract termination by TSOs; if it has, of the study outcome and the improvement measures; if not, the reasons for that;

(2) whether it knows if the OFCA has reviewed whether the existing policy and the Industry Code of Practice for Telecommunications Service Contracts (Industry Code) can effectively prevent TSOs from deliberately adopting complicated and time-consuming procedures to make it difficult for customers to terminate their contracts, thereby forcibly seizing their market shares; if it has reviewed, of the details and the improvement measures; if not, the reasons for that; and

(3) as TSOs which have strong financial backing can engage legal professionals to prepare telecommunications service contracts which are favourable to them and, owing to the costly litigation fees, members of the public often can only give up settling their disputes with TSOs over contract termination through legal means, what measures the authorities have in place to safeguard the legitimate

rights and interests of members of the public, especially those who are not eligible for legal assistance?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the Communications Authority (CA) is an independent statutory body, established on 1 April 2012 under the Communications Authority Ordinance (Cap. 616) as the unified regulator of the telecommunications and broadcasting sectors in Hong Kong in accordance with, *inter alia*, the Telecommunications Ordinance (Cap. 106) (TO) and Broadcasting Ordinance (Cap. 562) (BO) respectively.

My response to the three questions raised by Mr Paul TSE is as follows:

(1) The CA or the OFCA is not conferred with any statutory power under the existing TO to intervene or investigate contractual disputes over telecommunications services between telecommunications service providers (operators) and their customers. Nonetheless, the OFCA has been closely monitoring the operation of the telecommunications market and, with respect to the complaints lodged by consumers against telecommunications service contracts, carrying out consumer education programmes and encouraging the telecommunications industry to implement self-regulatory measures. Since July 2013, the CA has been empowered by the amended Trade Descriptions Ordinance (Cap. 362) (TDO) to regulate unfair trade practices in providing services by licensees under the TO or BO.

As regards self-regulatory measures, after active discussions between the OFCA and the industry organization, the Communications Association of Hong Kong (CAHK), CAHK drew up the Industry Code in December 2010. The Industry Code provides improvement measures addressing major concerns of the complaints lodged by consumers in relation to telecommunications service contracts, including that contracts must prescribe the rights of customers to terminate contracts, and that the arrangements for contract termination must not cause inconvenience to customers.

Since July 2011, all major fixed and mobile network operators and one major external operator have implemented the Industry Code.

The Industry Code has been implemented for more than three years. The numbers of complaints received by the OFCA involving telecommunications service contractual disputes have declined continuously, from 1 277 in 2011 to 1 116 in 2012 and 894 in 2013, representing a decrease of 13% and 20% respectively from the previous years. The monthly average number of complaints received in 2014 so far also decreased by 26% as compared to that in 2013. In the past three years, the OFCA has not identified any case of contravention of the Industry Code by any operator. These figures, to some extent, reflect that the existing self-regulatory measures are effective in reducing contractual disputes between consumers and operators.

As regards the TDO, section 13F prohibits traders from engaging in aggressive commercial practices. If a customer intends to terminate a telecommunications service contract or exercise his rights under the contract, and the operator imposes non-contractual barriers that are onerous or disproportionate, such behaviour may constitute aggressive commercial practices. The OFCA so far has not received any case involving suspected contravention of the TDO by operators arising from the arrangements for contract termination. If such complaints are received, the OFCA will take enforcement action subject to the facts and evidence of individual cases. The maximum penalty is a fine of $500,000 and imprisonment for five years.

(2) The OFCA has from time to time reviewed the existing regulatory measures, and has maintained close collaborations with CAHK. With a view to further improving the Industry Code, the OFCA conducted a comprehensive review with respect to the complaints received since the implementation of the Industry Code, and has, by making reference to operators' experience in implementing the Industry Code and the opinions of consumers and other stakeholders, proposed to CAHK last year some improvements to the Industry Code.

In respect of improving the arrangements for contract termination, the proposed new provisions will encourage operators to make available service termination forms on website; accept any written

requests for service termination; issue acknowledgement of receipt of and handle any verbal, written, or in person requests for service termination promptly without unreasonable delay.

The revised Industry Code will be implemented by operators in the first half of 2015 to further protect the rights and interests of consumers. The OFCA will continue to monitor the implementation of the Industry Code.

(3) In general, service contracts entered into between consumers and service providers come under the regulation of the Control of Exemption Clauses Ordinance (Cap. 71), Supply of Services (Implied Terms) Ordinance (Cap. 457), Unconscionable Contracts Ordinance (Cap. 458), and so on. Amongst these ordinances, according to the Unconscionable Contracts Ordinance, if a consumer thinks that there are unreasonable terms in a contract, he can seek a Court ruling to declare the relevant contract terms null and void.

A consumer who encounters contractual disputes may, if justified, bring civil claims against the relevant service provider through the Court or the Small Claims Tribunal. Apart from pursuing legal actions, he may seek assistance from the Consumer Council for conciliation. The Consumer Legal Action Fund may also assist consumers to pursue joint civil claims out of the same or same series of transaction with a common question of law or fact.

As regards telecommunications services, while the CA does not have the statutory power to handle contractual disputes, consumers who encounter telecommunications service contractual disputes may lodge complaints to the OFCA. Depending on the content of the complaints, the OFCA may refer them to CAHK for follow-up. Consumers may also report to the OFCA any case of suspected contravention of the TDO, and the OFCA will conduct investigation based on the facts of the cases.

MR PAUL TSE (in Cantonese): *President, I am very grateful to the Secretary for openly affirming that the revised Industry Code will be implemented to tie in with the relevant arrangements. Although the revised Industry Code will not be*

implemented until the first half of 2015 and the timing is thus a bit late, the first step has at least been taken to make things more convenient to consumers. In the future, consumers can request service termination orally or through other easier means.

Nonetheless, I cannot quite understand some of the statistics cited in the Secretary's main reply, so I hope he can offer me some enlightenment. First, although the number of complaints showed a decreasing trend in the past three years, there was still a respective yearly total of close to 1 000 complaints. The authorities have put forward some new provisions based on what they call a comprehensive review, analysis by the industry and opinions of consumers.

I wish to know one thing here. Regarding the yearly total of 1 000 complaints or so, why is there not even one single contravention of the Industry Code? Not even one single contravention of the Industry Code is found, so why is the industry still willing to volunteer changes? How do the authorities perceive the nature of these complaints? Why is there no substantiated complaint? What is the problem here?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, let me give a further explanation on the statistics I provided just now. The number of complaints involving contractual disputes was 1 466 in 2010 and 894 in 2013, showing that the number of complaints indeed declined. We need to adopt a wider perspective and realize that when there were totally 24.5 million accounts of fixed line, Internet and mobile services in Hong Kong in 2013, 894 complaints were honestly very small in proportion. Overall, the number of complaints involving contractual disputes represented only 0.004% of the total number of accounts. I therefore wish to point out that this complaint figure was very small relative to the total number of user accounts, and it can also show the effectiveness of the Industry Code. However, after reviewing the complaint cases, we are of the view that further reduction of the complaint figure may still be possible if the provisions of the Industry Code can be enhanced and improved. Therefore, after discussing with the industry and listening to the opinions of various stakeholders in society, we have decided to implement the improvement measures in the first half of next year with a view to further reducing the number of complaints.

PRESIDENT (in Cantonese): Mr TSE, has your supplementary question not been answered?

MR PAUL TSE (in Cantonese): *The focus of my question is about the nature of all these complaints which numbered close to 1 000, and also why the success rate was zero percent.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, these are mere complaint statistics. The industry and we have jointly implemented a scheme to settle account disputes. The scheme has been quite successful, and many such complaints or cases of suspected account problems have been settled under this mediation scheme.

MR PAUL TSE (in Cantonese): *I hope the Secretary can explain the nature of all these complaints which numbered close to 1 000, and also why the success rate was zero percent.*

PRESIDENT (in Cantonese): Secretary, can you provide the relevant information?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I have never talked about any zero-percent success rate. What I cited just now are complaint statistics only. Many account-related complaints have been settled under this mechanism.

MR PAUL TSE (in Cantonese): *In other words, did the Secretary mean … Since the OFCA did not identify any case of contravention of the Industry Code by any operator, can we say that the success rate was zero percent?*

PRESIDENT (in Cantonese): Secretary, is the Member's understanding correct?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I think Mr TSE's opinion is a bit illogical because the absence of any contravention of the Industry Code does not mean the absence of complaints. After all these complaints had been received, some of them were settled under this mechanism. Therefore, one cannot talk about a success rate of zero percent.

MR CHRISTOPHER CHUNG (in Cantonese): *(Voice recording unclear) … The Secretary has been questioned four times. This shows that he and I both face many difficulties.*

Recently, when I requested the termination of a service contract, I was asked to return 2.5 hours later due to the long waiting time. But I observed that they did not have much work to do at that time. Some residents complained that when they requested the termination of service contracts, they were asked to fill in a form, but the form could neither be downloaded nor received via email. They must obtain the form from a specified shop, and the form could not be obtained from any other shops near to them. Besides, after obtaining the form, they were not allowed to photocopy it for use. These are all unnecessary barriers. The telecommunications services companies in Hong Kong have put up all these barriers to customers asking for termination of service contracts. Judging from the replies given by the Secretary just now, I would think that it is necessary to review the Industry Code because it has not been very effective. For the sake of fairness, may I ask the Secretary whether the authorities will review the methods of business solicitations used by service providers, and whether customers who have entered into telecommunications service contracts can be allowed to terminate the contracts concerned by following procedures similar to those adopted for signing service contracts? For instance, if a customer can complete an application in the streets simply by producing his identity card and putting down his signature, can he be permitted to terminate the contract also by producing his identity card and putting down his signature in the future? The service provider installed the required equipment for the customers …

PRESIDENT (in Cantonese): Mr CHUNG, you have already stated your supplementary question clearly.

MR CHRISTOPHER CHUNG (in Cantonese): *… This is about the principle of fairness, President, because the public …*

PRESIDENT (in Cantonese): Mr CHUNG, you have stated your supplementary question, please do not digress from the topic.

MR CHRISTOPHER CHUNG (in Cantonese): *This is not a digression because the Industry Code is ineffective. How can any ordinary people know how to disconnect all those cables? They may break …*

PRESIDENT (in Cantonese): Mr CHUNG, please stop expressing views. You have already stated your supplementary question.

MR CHRISTOPHER CHUNG (in Cantonese): *Would the Secretary consider my proposal?*

PRESIDENT (in Cantonese): Please let the Secretary give his reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, my main reply can already address Mr CHUNG's question. Part (2) of the main reply clearly states that under the new provisions, TSOs should accept and handle verbal, written or in person requests for service termination, and make service termination forms available for downloading by customers on website. In addition, in part (1) of the main reply, I point out that section 13F of the TDO prohibits traders from engaging in aggressive commercial practices, such as the imposition of non-contractual barriers that are onerous or disproportionate, and this naturally covers the termination of telecommunications service contracts.

MR CHRISTOPHER CHUNG (in Cantonese): *President, I do not think the Secretary's reply is true to the facts. After this meeting, can the Secretary provide to this Council all TSOs' flowcharts of service delivery covering how*

solicitations are initiated and how contracts are terminated? Would the Secretary please provide this Council with such flowcharts, so that we can discharge our duty towards to the public?

PRESIDENT (in Cantonese): You have stated your request very clearly. Please sit down. Secretary, can you provide the relevant information?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I can provide Members with the Industry Code, the provisions of which are very clear.

MR CHRISTOPHER CHUNG (in Cantonese): *… I myself also experienced such difficulties a month ago. So, it is easy to imagine the situation of ordinary people.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

(The Secretary shook his head to indicate that he had nothing to add)

MR TANG KA-PIU (in Cantonese): *President, the business practices of the TSOs have certainly attracted many criticisms. Not too long ago, I held a press briefing on a new problem. The two victims were also present at the briefing, and their experiences were both about the mobile SIM cards issued by two different telecommunications companies. In both cases, the identities of the two victims were fraudulently used by unknown people to open and operate a SIM card account, and they were not aware of this until they enquired with the telecommunications companies concerned. The experiences of the two victims were similar ― those people used the SIM cards for three months and then terminated the contracts without making any payment. Subsequently, both victims were blacklisted by the telecommunications companies. In fact, such incidents can be very serious. If the Secretary's identity is fraudulently used by an unknown person to obtain a phone card for blackmailing, what are we going to do?*

PRESIDENT (in Cantonese): Mr TANG, please be concise.

MR TANG KA-PIU (in Cantonese): *Regarding these actual cases that are by no means isolated incidents, may I ask whether the authorities and CAHK have looked into the related problems?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I believe circumstances do vary from case to case. If Mr TANG can provide the information of any particular case, I am happy to pass it to the colleagues in the OFCA for following up.

MR TANG KA-PIU (in Cantonese): *I would like to add one point here. These are not isolated cases, because two telecommunications companies were involved. I believe this type of cases is becoming common ― some people have fraudulently used the personal particulars of others to illegally obtain SIM cards.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I think there is a need to conduct investigation and verify the facts of the cases. It is difficult for me to give any comment here.

MR CHARLES PETER MOK (in Cantonese): *President, I can sense from the Secretary's reply that he may not have actively considered how to address the problem. He has no doubt pointed out some methods, but the Industry Code is just a code of practice. I understand that some telecommunications companies even impose charges on their customers. The Secretary has referred to the TDO and other ordinances, but in fact, many people only want to terminate the services concerned, rather than making things complicated or even going to court for a ruling.*

President, my question is very simple. We have been talking about telecommunications services so far, but right after the incident, many reporters were confused and even asked me about the problems relating to subscription television services. It seems that if subscription television services have these

problems, the situation would be even more serious. They have kept asking me for solutions to address the problems with telecommunications. Currently CAHK can help, but how should we address the problems relating to subscription television? The existing code of CAHK does not cover subscription television.

Will the Secretary please give a reply to my question? Many people are unable to terminate subscription television services. How should we tackle this problem?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, at present, all subscription television licences provide that the licensee must draw up a code of practice on the provision of service to customers, covering the receipt and handling of complaints and opinions, and the report of cases to the CA. Hence, when licensees apply for licence renewal, the CA would require them to adopt specific improvement measures addressing the quality of customer services and contractual or account-related disputes. While the CA has no statutory power to investigate or handle the disputes between subscription television operators and their customers, as I mention in the main reply, under the TDO, the CA may handle any unfair trade practices according to the revised TDO.

MR CHARLES PETER MOK (in Cantonese): *President, I do not quite know what the Secretary means to say in his reply. Does he mean that although no control can be possible under the ordinance, there is no harm in lodging a complaint? As he points out in part (1) of the main reply, the authorities are not conferred with any statutory power under the existing ordinance to intervene in or investigate contractual disputes.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, Mr MOK has said out that some people are unable to terminate their service contracts. As I mentioned twice earlier on, section 13F of the TDO prohibits traders from engaging in aggressive commercial practices, which means traders should not impose unreasonable barriers that prevent customers from terminating their contracts.

MR CHARLES PETER MOK (in Cantonese): *President, may the Secretary clarify whether the authorities have any intention to amend the laws and regulations on telecommunications in order to enhance their enforcement power?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, regarding Mr MOK's supplementary question on legislative provisions relating to subscription television, I have replied that the authorities have no power, under the existing ordinance, to intervene in any disputes between traders and customers in this particular respect. Our regulatory environment is relatively market-driven and loose, but in case any traders engage in any unfair trade practices, the TDO may provide consumers with the required protection.

PRESIDENT (in Cantonese): We have spent 22 minutes on this question. Fourth question.

Guarding Against Interference with Affairs of Hong Kong by Foreign Forces

4. **MR CHRISTOPHER CHUNG** (in Cantonese): *It has been reported that earlier on, a number of newspapers in Hong Kong received e-mails which alleged that the chairman of a local media group had made huge amounts of political donations to a number of former and incumbent Members of the Legislative Council, well-known political figures and former government officials. It has also been reported that the person has close ties with senior government officials and military personages of a certain country. In this connection, will the Government inform this Council:*

(1) given that politically appointed officials or civil servants are currently regulated by the Prevention of Bribery Ordinance or the relevant internal codes of the Government during service, and are strictly prohibited from accepting advantages, whether any legislation or code is currently in place to regulate the acceptance of advantages directly or indirectly from local or foreign sources by such personnel after retirement; if so, of the details;

(2) *whether any legislation is currently in place to prohibit any foreign government or political organization from providing pecuniary, non-pecuniary or deferred benefits to Hong Kong's political organizations or political figures through intermediaries such as local enterprises or people, in an attempt to interfere with Hong Kong's internal affairs; if such legislation is not in place, whether the Government has plans to enact legislation to impose such regulation; if it does, of the timetable; and*

(3) *as it has been reported that certain foreign forces have attempted to recruit, through making donations, local political figures or Legislative Council Members to be the spokespersons for their interests in Hong Kong or to influence the discussions on Hong Kong's constitutional development, whether the Government will take the initiative to request the Central People's Government or the Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong to provide assistance in the diplomatic aspect to guard against foreign forces from indirectly interfering with the internal affairs of Hong Kong; if it will, of the details?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, since individual cases of donations as reported in the media concern investigations being handled by law-enforcement agencies, this Bureau will not comment on these cases.

As regards the first part of the question concerning the scope of application of the Prevention of Bribery Ordinance (Cap. 201), we have consulted the Administration Wing and our reply is set out below.

There are various laws in Hong Kong that govern different categories of corrupt practices, including the Prevention of Bribery Ordinance (the Ordinance) in statute law. Under section 4(2) of the Ordinance, any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts advantage as an inducement to or reward for or otherwise on account of his performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant, may commit an offence of "soliciting or accepting advantage by a public servant".

According to the interpretation in section 2 of the Ordinance, "public servant" means any "prescribed officer" and also any employee of a specified public body, and "prescribed officer" includes any person holding an office of emolument, whether permanent or temporary, under the Government, and any principal official of the Government appointed in accordance with the Basic Law. According to this interpretation, any person who has ceased holding an office of emolument or any retired principle official of the Government does not come under the definition of "public servant" and hence is not governed by section 4(2) of the Ordinance. Nevertheless, the said section is still applicable to the relevant person regarding his conduct while he was a "public servant".

Moreover, the Civil Service Bureau has advised that the existing government rules and regulations on acceptance of advantages by civil servants are only applicable to serving civil servants (including those on pre-retirement leave).

In addition, the existing Code for Officials under the Political Appointment System governing the acceptance of advantages by Politically Appointed Officials is applicable to serving Politically Appointed Officials.

As regards the second part of the question, Hong Kong does not have any specific legislation regulating the operation of political parties or requiring registration of political parties. When considering whether a political party law should be introduced to govern the operation of political parties or not, including the sources of income of political parties and their management of donations, we consider that various groups in the community have to examine in detail the pros and cons the legislation may pose on the development of political parties. This notwithstanding, the Government adopts an open mind towards the issue of formulating a political party law in the long run and we welcome views of the Legislative Council and the community on this issue.

As regards the last part of the question, constitutional development of Hong Kong is a matter for the Hong Kong Special Administrative Region (HKSAR) and an internal affair of China. Foreign governments should respect this principle and should not interfere in any way; and the HKSAR Government would not accept any interference from foreign forces.

MR CHRISTOPHER CHUNG (in Cantonese): *President, I think the Secretary is very evasive in his reply to my question. As to part (2), he does not need to avoid the formulation of a political party law. It is because under existing laws, such as section 2(1) of the Crimes Ordinance (Cap. 200), offences of treason and secession are already provided for, and section 9 of the Ordinance also defines a seditious intention. The Government can enforce these legislative provisions at any time.*

These days, many politicos and legislators have been using the Legislative Council Complex for conducting anti-government activities, and it is also alleged that they have accepted advantages from foreign sources for launching the occupation movement. Have they already committed the aforementioned offence of treason and other offences with a seditious intention? If yes, why hasn't the Government arrested them?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as far as I understand, government officials will not give any legal opinions about any specific situations or incidents when answering questions in the Legislative Council. I believe the long-standing principle is that law-enforcement agencies will act in accordance with the law with reference to the cases concerned and the relevant legislation. This is the long-standing practice. However, as I have said just now, I hope Members can appreciate that I will not make any specific comments on any hypothetical situations or cases.

MR CHRISTOPHER CHUNG (in Cantonese): *President, I think the Secretary …*

PRESIDENT (in Cantonese): Mr CHUNG, what is your point?

MR CHRISTOPHER CHUNG (in Cantonese): *… is really much too evasive. He can see that the situation outside is so chaotic, but he still treats it as something hypothetical.*

President, the first … I wish to ask one question …

PRESIDENT (in Cantonese): Mr CHUNG, the Secretary has already spelt out the principle. You have stated your supplementary question and the Secretary has already replied.

MR CHRISTOPHER CHUNG (in Cantonese): *No, I still wish to raise one more supplementary question.*

PRESIDENT (in Cantonese): Please sit down and wait for your turn again.

MR NG LEUNG-SING (in Cantonese): *President, I think there is one point in Mr Christopher CHUNG's supplementary question which is worth following up, because certain political parties may now be putting in all their efforts, but they are subject to no regulation, not to mention the fact that they have accepted money, and are possibly deploying quite a large number of people in the operation. For example, a couple of days ago, some political parties, or worse still, the personal assistants of certain Legislative Council Members went so far as to claim control of the access road, saying, "Government officials please alight here and use other passageways. Why don't you walk?" I think everyone in Hong Kong was shocked at the sight of this …*

PRESIDENT (in Cantonese): Mr NG, what is the relationship between the main question and what you are saying now?

MR NG LEUNG-SING (in Cantonese): *My supplementary question is precisely about this point.*

PRESIDENT (in Cantonese): Please state your supplementary question.

MR NG LEUNG-SING (in Cantonese): *That being the case, there have been lots of media reports specifically on the activities of political parties these days. Has the Government looked at such media reports on the continuous acceptance*

of money ("black" or otherwise) by political parties? Can the information provided in such media reports be used by the Government as the basis of investigating the activities of certain organizations or political parties? Is such a mechanism in place? Or, will such a mechanism be improved in the future to give members of the public greater assurance?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I have mentioned in my main reply, the Prevention of Bribery Ordinance in statute law already contains the relevant provisions. I have already explained these provisions to Members in my main reply. And, naturally, political figures or political parties participating in elections are also governed by the Elections (Corrupt and Illegal Conduct) Ordinance.

Moreover, according to common law, misconduct in public office, bribery, corruption and abuse of power, including cases caused by a conflict of interest, may likewise constitute a criminal offence. For that reason, as I have said just now, the legal criteria involved in individual cases must depend on the question of facts, and the legal criteria to be applied may vary from case to case. Hence, I will not and should not comment on any situations that have been described in great detail here. I can only say that the law-enforcement agencies of the HKSAR have always been executing their duties according to the law. They will seriously investigate and monitor all unlawful acts and follow them up impartially under our legal system and judicial procedures.

MR CHAN HAN-PAN (in Cantonese): *President, with regard to the open collusion of politicos with foreign forces and their acceptance of donations from foreign organizations, both of which have caused adverse impact on Hong Kong and the country, are there any existing legislative provisions that can prevent such acts? Besides, suppose the enactment of legislation to implement Article 23 of the Basic Law had gone ahead in 2003, would such acts have been brought under any regulation? If yes, will the Administration learn a lesson from the present Occupy Central movement and focus on such problems in the enactment of national security laws in the future?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Many thanks to Mr CHAN Han-pan. Article 23 of the Basic Law does not fall within the purview of the Constitutional and Mainland Affairs Bureau. However, I note that references to such problems are found in Article 23 of the Basic Law. This is the first point.

The second point is that at the meetings of the Panel on Constitutional Affairs in the last legislative session, the Constitutional and Mainland Affairs Bureau did receive Members' requests for the conduct of studies by the SAR Government on whether a political party law should be enacted to regulate political parties. Our colleagues in the Constitutional and Mainland Affairs Bureau are currently conducting an internal study. Once our study comes up with a well-developed basis, we will come back and hold discussions with the Legislative Council Panel on Constitutional Affairs on whether any legislative amendments are warranted as a next step, and how they should be made. Nevertheless, I believe that as is also the case with other ordinances, the entire legislative process will take quite some time to complete.

MR CHAN HAN-PAN (in Cantonese): *The Secretary has not fully answered my supplementary question. My supplementary question is very clear: are there any provisions in the existing laws which can prevent the occurrence of the situation concerned?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Besides the two ordinances I have mentioned just now, namely the Prevention of Bribery Ordinance and the Elections (Corrupt and Illegal Conduct) Ordinance, I have also said that under common law, a political party or organization is also governed by the relevant provisions in either one of two other ordinances in Hong Kong (the Companies Ordinance and the Societies Ordinance), depending on which ordinance is used by the political party or organization for the purpose of registration. Furthermore, in the case of a registered body corporate, I believe that other relevant laws, such as the Inland Revenue Ordinance, may also be applicable, but this must depend on the kinds of acts involved, that is, whether they are financial or other kinds of acts. We will go about the matter of regulation in the light of the relevant registration background and the related legal frameworks.

MR LEUNG KWOK-HUNG (in Cantonese): *President, now that ZHOU Yongkang (not Alex Chow Yong-kang of the Hong Kong University Students' Union, but ZHOU Yongkang, a former member of the Politburo Standing Committee of the Chinese Communist Party) is under "double designations" and caught in a factional struggle with XI Jinping, may I ask the Secretary whether he has learnt from any intelligence that the remnants of ZHOU Yongkang's clique have donated to the DAB's cause of creating chaos in Hong Kong through the purchase of a painting done by ZHANG Xiaoming? Second, are the acts of triad thugs in Mong Kok masterminded by the remnants of ZHOU Yongkang's clique? Has the DAB taken any part? Many blue-ribbon people are from the DAB and FTU.*

PRESIDENT (in Cantonese): Mr LEUNG, you have stated your supplementary question, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *ZHOU Yongkang has been dealt with by the Fourth Plenary Session, and we do not know whether he has collaborated with foreign forces, right? He was in charge of foreign …*

PRESIDENT (in Cantonese): You have made your point very clear.

MR LEUNG KWOK-HUNG (in Cantonese): *Have they conducted any investigation to ascertain whether the DAB, the FTU and all those blue-ribbon people have accepted any material advantage from the remnants of ZHOU Yongkang's clique and used it to instigate riots that rock the political situation in Hong Kong, so as to humiliate President XI Jinping? Has there been any investigation?*

PRESIDENT (in Cantonese): Mr LEUNG, you have already stated your supplementary question, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *It is very strange and usual that a painting done by ZHANG Xiaoming should worth $13 million. It must be a donation to the DAB from the remnants of ZHOU Yongkang's clique …*

PRESIDENT (in Cantonese): Mr LEUNG, stop speaking immediately and sit down.

(Mr LEUNG Kwok-hung spoke in his seat)

PRESIDENT (in Cantonese): Mr LEUNG, if you keep on speaking, I will ask you to leave the Chamber.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I am afraid that the portfolio of the Constitutional and Mainland Affairs Bureau does not cover the collection of intelligence. I am therefore unable to answer this supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he says he has not collected any intelligence, but he was so quick in his reply to the questions asked by Mr Christopher CHUNG and other Members just now.*

PRESIDENT (in Cantonese): Mr LEUNG, the Secretary has given his reply. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes.*

IR DR LO WAI-KWOK (in Cantonese): *President, since the Secretary referred to the Inland Revenue Ordinance in his reply just now, I may as well ask a simple and straightforward supplementary question. Are donations to political parties taxable? Regarding acceptance of donations by an individual member of a political party, direct acceptance by the political party, or acceptance by an*

individual for transfer to the political party, are there any taxation loopholes? Does the problem of tax evasion exist? Can the Secretary give us some actual examples for the purpose of illustration?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Actually, a reply to this supplementary question by Secretary Prof K C CHAN sitting in front of me will be … Anyway, I will try to answer Ir Dr LO's supplementary question with the general information at hand. According to the information I have, section 14(1) of the Inland Revenue Ordinance provides that profits tax shall be charged on every person carrying on a trade, profession or business in Hong Kong in respect of his assessable profits arising in or derived from Hong Kong from such trade, profession or business (but capital receipt shall not be deemed as assessable profits). As to whether any specific corporation, body or individual should pay the tax, the Inland Revenue Department (IRD) must first thoroughly consider all the information about the relevant case before making any assessment. In the course of assessment, the IRD will require the taxpayer to produce relevant information and papers according to actual needs, with a view to ascertaining whether the profits and income reported by the taxpayer are accurate. A person carrying on a business should observe the Inland Revenue Ordinance. The IRD has always been enforcing the law very strictly, endeavouring to fight tax evasion acts and ensuring taxpayers' proper fulfillment of their taxation responsibility. The IRD will gather information from various channels, and it will conduct desk audit, field audit and investigation to examine and deal with suspected cases of tax evasion.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

IR DR LO WAI-KWOK (in Cantonese): *I wish to follow up my supplementary question. Has there been any actual case where a certain political party filed a tax return after accepting a donation? Or, has the IRD ever investigated any possible omissions?*

PRESIDENT (in Cantonese): Ir Dr LO, you are raising another supplementary question. Please sit down and wait for your turn again.

MR CHRISTOPHER CHUNG (in Cantonese): *Regarding the Secretary's main reply to the first part of the question, may I ask whether he will conduct a fresh review? It is because there is an actual case where a top government official (former Chief Secretary for Administration Mrs Anson CHAN) accepted a large sum of donation from a media tycoon. We all know that when she was in office, she held a top post and had very great powers. And, upon her retirement, she received more than $10 million of pension payment from the Government.*

PRESIDENT (in Cantonese): Mr CHUNG, please state your supplementary question.

MR CHRISTOPHER CHUNG (in Cantonese): *However, in January 2014, she accepted a donation of $3 million. In the same month, she wrote to the several leading banks in Hong Kong and questioned why they had not placed any advertisement in the media tycoon's newspaper. Was this some kind of deferred benefit? Or, was she exercising her deferred influence …*

PRESIDENT (in Cantonese): Mr CHUNG, please state your supplementary question.

MR CHRISTOPHER CHUNG (in Cantonese): … *to oppress commercial institutions? May I ask the Secretary whether he will re-consider the introduction of legislative amendment, with a view to bringing retired top government officials under the same regulatory framework?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): As I said just now, I will not make any specific comment on any particular individuals or cases. However, as Mr Christopher CHUNG has mentioned deferred benefit, please allow me to provide a brief reply with reference to some general principles.

President, my understanding is that deferred benefit is not really a legal and technical term as such, and there is no reference to it in the Prevention of Bribery Ordinance. Under section 4(2b) of the Ordinance, any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant, shall be guilty of the offence of "soliciting or accepting advantage by a public servant". Section 4(1) of the Ordinance also provides for the offence of offering advantage to a public servant. Any public servant who solicits or accepts any advantage, and who thus performs or abstains from performing, or has performed or abstained from performing, any act in his capacity as a public servant, shall also be guilty of the relevant offence.

However, as to whether deferred benefit shall constitute the advantage as prescribed in the Ordinance, all must depend on the specific circumstances of individual cases, the evidence concerned and also the legal provisions applicable. Therefore, we must not make any sweeping generalization.

MR CHRISTOPHER CHUNG (in Cantonese): *I am asking him whether he will conduct a fresh review, because times have changed and an actual case has emerged …*

PRESIDENT (in Cantonese): Mr CHUNG, this is not a debate. You have already repeated your supplementary question. Please sit down. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have nothing to add.

MR TANG KA-PIU (in Cantonese): *Just now, I noted the point of Mr CHAN Han-pan's question, and I also heard the reply of the Secretary. I wish to ask a more specific question. The Secretary states in the main reply that the Government adopts an open mind towards the issue of formulating a political*

party law. To a certain extent, a political party law may be able to deal with the issues pointed out by Mr Christopher CHUNG.

Article 23 of the Basic Law reads: "The Hong Kong Special Administrative Region shall enact laws on its own …", and it ends with "to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies." As pointed out just now by the Secretary himself, he is responsible for the formulation of a political party law, but not for the implementation of Article 23 of the Basic Law. Does this mean that when a political party law is to be formulated in the future, he will be guided by a pre-determined position, and will not incorporate the principle underlying the last part of Article 23 which I mentioned just now? If so, what is the point of formulating a political party law?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): The Constitutional and Mainland Affairs Bureau is currently conducting a working-level study on the topic, and we will hold discussions with the Panel on Constitutional Affairs later on. Nevertheless, my colleagues' preliminary understanding at this stage is that in places where there are political party laws, the scope of such laws is mainly about three areas. First, the requirements for political party registration. Second, the regulation of political party operation, funding sources and donations management. Third, a legal basis built on registration and regulation for the provision of government funding to political parties.

Therefore, in many places with political party laws, their laws mainly involve these three areas. We will hold further discussion with the Panel on these three areas in due course. In the course of discussion, we will make reference to the practices and approaches adopted by other places with political party laws.

Regarding Article 23 of the Basic Law … I believe the main contents of political party laws in other countries are the three areas I have just mentioned. I have explained that Article 23 is to be dealt with by colleagues in the Security Bureau. I should not make any further comments here.

MR TANG KA-PIU (in Cantonese): *President, I wish to make one point very clear. We should be talking about one single government (irrespective of which bureau is involved) and one single piece of legislation only. Let me put my question once again. If a political party law is to be formulated in the future, will he exclude the prohibited acts which are mentioned at the end of Article 23 of the Basic Law?*

PRESIDENT (in Cantonese): Mr TANG, I could hear clearly that the Secretary had given a very specific reply. We have spent more than 23 minutes on this question. Fifth question.

Legal Proceedings Related to CITIC Limited

5. **MR JAMES TO** (in Cantonese): *President, in 2008, CITIC Pacific Limited (currently known as CITIC Limited and hereafter referred to as "CITIC") suffered massive losses incurred by its investment in leveraged foreign exchange contracts. It has been six years since the Securities and Futures Commission (SFC) and other relevant agencies commenced various investigations into CITIC's disclosure of its financial position at that time and related matters (hereafter referred to as "the CITIC incident"). The SFC recently announced on the 11th of last month that it had instituted proceedings in both the Court of First Instance (CFI) and the Market Misconduct Tribunal (MMT) against CITIC and five of its former executive directors. The SFC alleges that CITIC and the directors concerned had engaged in market misconduct involving disclosure of false or misleading information on the company's financial position. The SFC is seeking orders from the CFI to restore or compensate 4 500 investors who purchased CITIC shares between the date on which CITIC announced such information and the date the true financial position was disclosed (hereafter referred to as "the specified period"). The SFC is also seeking that CITIC and the directors concerned be sanctioned by the MMT. In this connection, will the Government inform this Council:*

(1) apart from the aforesaid investors, whether the authorities have plans to assist other investors who suffered losses due to the CITIC incident (including those investors who had already held CITIC shares prior to the specified period, as well as those who had purchased CITIC-related warrants or options during the specified period or had held such items prior to that period) in seeking

compensations; if they have such plans, of the details; if not, the reasons for that;

(2) whether it knows the respective scopes of the investigations carried out by agencies such as the SFC, the Police and the Financial Reporting Council; when the SFC submitted its investigation results to the Department of Justice (DoJ) and the Financial Secretary, and when the Financial Secretary gave his consent to instituting proceedings; the latest progress of the investigations carried out by the various agencies concerned; as well as the expected time when decisions will be made as to whether the persons concerned will be prosecuted or penalized; and

(3) given that the authorities indicated in their replies to questions raised by Members of this Council in 2010 that in general, it was only after the DoJ had ruled out criminal prosecution would the SFC consider instituting proceedings in the MMT, and that the Securities and Futures Ordinance (SFO) also provides that if proceedings have been instituted against any person, no criminal prosecution may be instituted against that person in respect of the same conduct, whether the authorities have assessed if the current proceedings instituted in the MMT by the SFC have undermined the power of the DoJ in instituting criminal prosecutions in respect of the CITIC incident; if the assessment outcome is in the affirmative, of the extent; if in the negative, of the justifications and how the authorities safeguard the rights and interests of minority shareholders and uphold Hong Kong's reputation as an international financial centre?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, in response to Mr James TO's question, we have consulted the SFC, the DoJ and the Hong Kong Police Force (the Police) for comments and our reply is as follows.

(1) The SFC considers that claims by pre-existing shareholders depend on individual and personal circumstances. Their position is different to the 4 500 or so investors who made an investment choice to purchase CITIC shares between 12 September 2008 and the date of the Profit Warning.

This notwithstanding, the SFC's actions against CITIC and its former directors (hereafter referred to as "the SFC actions") include proceedings before the MMT. If the SFC is successful in the MMT, a finding of market misconduct made by the MMT can be relied upon by pre-existing shareholders and other investors to establish liability in individual actions for compensation under section 281 of the SFO. This will enable the pre-existing shareholders and other investors to assess the merits of their claims more accurately and help overcome problems establishing the factual underpinning of claims, including the fact of market misconduct and the identity of person(s) who perpetrated conduct constituting market misconduct.

As for investors who may have purchased warrants and futures, the SFC noted that turnover in the warrant, options and futures markets was not significant during the period between 12 September 2008 and 20 October 2008. The SFC considers that these claims also depend on uniquely individual circumstances and are more appropriately brought as individual claims under section 281 of the SFO and may be assisted by an MMT finding if the SFC is successful.

(2) The SFC conducted an investigation into the circumstances surrounding the disclosure of the CITIC's foreign exchange losses in 2008. The SFC sent the relevant evidence to the DoJ in 2009. It sought and obtained the consent of the Secretary for Justice to commence the MMT proceedings in 2014.

Police investigations into the CITIC incident on aspects outside the subject matter of the SFC's actions are still ongoing. Among others, there are ongoing legal proceedings on whether a large number of documents and computer exhibits seized by the Police in the course of the relevant investigation are covered by legal professional privilege so as to be privileged from disclosure to and inspection by the Police. Such legal proceedings will be heard before the Court of Appeal in May 2015. As the police investigations are still ongoing, and appropriate follow-up actions shall be taken in the light of the appeal outcome, it is inappropriate to comment further on the case. Once the police investigations have been concluded, the DoJ will decide, as in all other cases,

whether a prosecution is appropriate in accordance with the Prosecution Code.

It is the established practice of the Financial Reporting Council that it will not comment on individual cases.

(3) Article 63 of the Basic Law stipulates that "The [DoJ] of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference." The principles applicable in making a prosecutorial decision in any given case are clearly set out in the established and published Prosecution Code and are strictly applied. The considerations are whether the available evidence supports a reasonable prospect of conviction and if so, whether it is in the public interest to prosecute. Having considered all the prevailing circumstances, the DoJ considers that the subject matter of the SFC's actions is best dealt with by way of proceedings before the MMT as well as pursuant to section 213 of the SFO before the CFI of the High Court. Any other ongoing investigations and proceedings, civil or criminal, not within the scope of the SFC's actions will not be prejudiced.

We will continue to improve our regulatory framework to meet evolving market needs and protect the investors. For example, a statutory disclosure regime has been established since January 2013 whereby listed corporations are required to disclose price sensitive information in a timely manner, backed by civil sanctions for any non-disclosure. This has enhanced market transparency and quality, brought our regulatory regime for listed corporations more in line with those of overseas jurisdictions, and helped sustain Hong Kong's position as an international financial centre.

MR JAMES TO (in Cantonese): *President, I am not a holder of any CITIC shares. Many "wage earners" in Hong Kong, however, may have Mandatory Provident Fund (MPF) accounts. If part of their MPF is invested in index funds, it is possible that the several dozen constituent stocks under the MPF index funds held by these several hundred thousand people may continue to purchase CITIC shares. President, I say so on the premise that it seems very unfair for the Government to assist only those 4 500 people who purchased CITIC shares since the several days after 10 September 2008. The reason is that those pre-existing*

holders of CITIC shares were actually also affected, as they were misled by market circulars and therefore did not sell their shares or make any other investment decisions.

President, the Government tells us to wait some more time for the reason stated in paragraph two of part (1) of the main reply that if those 4 500 investors win the lawsuit with the SFC's assistance, this will be of some help to others. But I want to ask if the Government has any more proactive means, such as altering the existing litigation approach, to include other investors who were pre-existing holders of CITIC shares. In the case of warrants, I think the Government cannot possibly say that it will not provide any assistance because only a small number of people are involved. I think those who purchased warrants after 12 September 2008 are likewise victims, and that assistance must still be provided even if there is only one such person, because he was misled all the same. Why does the Government practise favouritism in this respect?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): In this regard, as far as we understanding it, the SFC has explained that since those 4 500 investors purchased their shares during the period from 12 September to 20 October 2008, and their purchasing behaviours obviously took place during that very period, it can be determined without much difficulty that their behaviours were subject to the influence of the false information disclosed. As for those pre-existing investors, people may doubt whether they wanted to obtain more information before deciding whether to advance or delay the sale of their shares. In this connection, the SFC holds the view that their decisions of whether to sell their shares might involve many individual circumstances, so it cannot make such a generalization. Therefore, after evaluation, the SFC thinks that these investors must be differentiated from the 4 500 investors who obviously purchased the shares during that period.

MR JAMES TO (in Cantonese): *President, concerning those people who purchased warrants after 12 September …*

PRESIDENT (in Cantonese): Secretary, do you have anything to add in this regard?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): As I mentioned in the main reply just now, the number of investors purchasing derivatives was not large. If we again adopt the earlier line of thoughts and justifications in ascertaining how such investors differ from those 4 500 investors, we will notice that, first, since derivatives belong to higher-risk investments, buyers of derivatives are already different from investors purchasing shares in nature. Moreover, the former may even engage in offsetting or other high-risk transactions. This is a reason why they acquired the shares concerned. Therefore, regardless of which aspects consideration is given to, it is still difficult to determine the individual circumstances. Similarly, for this very reason, their circumstances likewise differ from those of the 4 500 investors who purchased CITIC shares during the specified period.

MR KENNETH LEUNG (in Cantonese): *The Secretary mentions in part (3) of the main reply that regarding certain misconduct, the DoJ will take account of various factors and subsequently decide whether prosecution should be initiated at the CFI or the MMT pursuant to the SFO. I want the Secretary to clarify whether this decision is mutually exclusive. Does it mean that if a prosecution has been initiated, then no prosecution will be instituted at the MMT for the same conduct?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I wish to offer a brief explanation. Under the SFO, anybody who appears before the MMT for hearing in respect of an incident will not face any criminal prosecution under Part XIV of the Ordinance. Therefore, speaking of this incident, no criminal prosecution will be instituted under Part XIV of the SFO. However, as I said a moment ago, any other ongoing investigations and proceedings, civil or criminal, not within the scope of the SFC's actions will not be prejudiced.

MR KENNETH LEUNG (in Cantonese): *President, I do not quite understand. There are certainly various factors that lead to an act. However, if two different criminal prosecutions will be instituted for a single act, will this de facto subject the defendant concerned to double penalties? This is my question.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Let me add a few more words here. In the case of police investigation, for example, the Police say that concerning the CITIC case, they are now conducting investigations into the aspects outside of the relevant legal proceedings initiated by the SFC. The SFO mainly covers market misconduct offences, but other offences such as conspiracy to defraud, fraud and making false representation are outside its scope. Nonetheless, as I said just now, since investigation is now underway, we are not in a position to disclose any details.

MR CHRISTOPHER CHEUNG (in Cantonese): *President, although the SFC spares no effort in protecting the interests of investors in the CITIC incident, there are still many instances which are unfairness to investors because of the conflicting gate-keeping roles of the SFC and the Hong Kong Exchanges and Clearing Limited (HKEx). Recently, for example, the China High Precision Automation Group Limited was suspended from trading in its shares due to its doubtful accounts. But later, the HKEx approved its resumption of dealings in its shares. Soon after that, however, the SFC suspended the trading of the company's shares again. Moreover, because of problems with its accounts, the China Metal Recycling (Holdings) Limited …*

PRESIDENT (in Cantonese): Mr CHEUNG, is your supplementary question related to this main question?

MR CHRISTOPHER CHEUNG (in Cantonese): *In my view, because of their confusing roles, the decisions made by the HKEx and the SFC are very often conflicting, thus jeopardizing the interests of small investors. I want to ask the Secretary if it is possible to define the respective portfolios of the two monitoring bodies more clearly, so that investors will have a clear idea about which standards, rules and regulations they should follow, and to reduce small investors' chance of loss due to conflicts arising from their different roles in the future.*

PRESIDENT (in Cantonese): Mr CHEUNG, I understand that you are very concerned about this matter. But your supplementary question is not related to Mr James TO's main question.

MR CHRISTOPHER CHEUNG (in Cantonese): *In that case, I will raise the issue when there is a related agenda item.*

MR ALBERT HO (in Cantonese): *President, more than six years have passed since the incident in which CITIC suffered serious losses of as many as one third of its assets as a result of speculating in foreign exchange contracts. It has taken our enforcement and monitoring bodies as long as six years to make a decision, which is to bring the case before the MMT and institute a civil lawsuit at the High Court on the very last day. That is all.*

The Secretary has been asserting that we must sustain our position as an international financial centre and bring Hong Kong on a par with other jurisdictions. Does he feel ashamed when uttering those words? Is the Secretary aware of an incident of the same nature in Singapore? The China Aviation Oil (Singapore) Corporation Limited suffered losses for the same reason of speculating in such leveraged derivatives, and the amount was around half of that incurred by CITIC. The difference is that the monitoring body in Singapore only spent six months before releasing an interim report giving shareholders a brief account of what had happened. Within the one to two years that followed, it instituted prosecution, and the people involved were convicted around three years later. Now, they have already served their sentences. May I ask …

PRESIDENT (in Cantonese): Mr HO, please state your supplementary question as soon as possible.

MR ALBERT HO (in Cantonese): *How efficient is our Government?*

PRESIDENT (in Cantonese): Please state your supplementary question as soon as possible.

MR ALBERT HO (in Cantonese): *I now want to ask the Secretary this question. Despite the occurrence of so many things since then, you still say that the authorities will try to seek information from the High Court only next year. Honestly, I have no more interest in waiting for your reply on the progress. I want to ask what happened to the company in this incident in which its shareholders suffered huge financial losses. Has anyone committed the crime of fraud or breaching their fiduciary duties, thus providing shareholders a ground to take derivative actions? All this is the basic information we need. Will the Government publish a report, should it do so and when will it do so?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I believe that in bringing the CITIC incident before the MMT for hearing this time around, the SFC will probably produce some proof to point out the market misconduct involved. I believe this will certainly enable investors and the market to better understand the facts. In addition, as I said just now, if the lawsuit at the MMT is successful, this can help all those investors who wish to file claims to resolve a relatively complicated major issue: the question of whether CITIC and other people involved shall bear some factual and legal liability.

(Mr Albert HO stood up)

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR ALBERT HO (in Cantonese): *The Secretary has completely evaded an issue. He has only talked about …*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR ALBERT HO (in Cantonese): *… the aspect of market misconduct. But my question is about whether the whole incident involves … As many investigations have commenced, will there be an integrated report at the end of the day telling people or shareholders whether fraud or breach of fiduciary duties was involved,*

and whether shareholders are entitled to take derivative actions? We need all the information concerned. When will the authorities publish the relevant report?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The Police may be carrying out investigations into certain conduct currently not dealt with by the SFC. Therefore, in this regard, I will not make any comments now.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Last oral question.

Tree Management Work

6. **DR KENNETH CHAN** (in Cantonese): *President, on 14 August this year, a big tree collapsed from a slope inside a private residential estate at Robinson Road and fell onto a footpath, crushing a passing pregnant woman to death. Subsequently, quite a number of tree experts urged the Government to expeditiously enact legislation on trees and improve its tree management policy. In this connection, will the Government inform this Council:*

(1) apart from reminding property owners and management companies of private residential estates of their responsibility for proper maintenance of the trees within their estates and disseminating relevant information to them by issuing letters and organizing seminars, whether the authorities have specific measures at present to help them carry out tree maintenance work; if they do, of the details; if not, whether the authorities will consider formulating such measures immediately; if they will, of the details; if not, the reasons for that;

(2) whether it has improved tree management work in the light of the aforesaid tree collapse incident; if it has, of the latest progress and details; if not, whether the authorities will consider taking follow-up actions; if they will, of the details; if not, the reasons for that; and

(3) *given that the former Secretary for Development indicated in June 2011 that she would seriously consider commencing studies on enacting legislation on trees, of the latest progress of such initiative, as well as the work plan and timetable for the legislative work; if it does not have such work plan and timetable, of the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, we are saddened by the tragic incident that occurred at Robinson Road on 14 August in which a tree in a private housing estate collapsed and killed a pregnant woman. We understand the public's worries about the risks posed by problematic trees and concerns about the quality of tree management on private land.

Hong Kong has a rich trove of trees, many of which have become mature and even aged. Trees, like all other living organisms, have a natural cycle. They grow, age, become weak and die. Their growth and conditions are subject to changes over time or environmental factors. To better protect public safety, the Tree Management Office (TMO) introduced a new tree risk assessment arrangement in 2010, which was formulated with reference to internationally accepted practices. The objective is to minimize the risk of tree failure, in particular, at locations with high pedestrian or vehicular flow.

Tree management is a profession and appropriate tree maintenance services should be provided by personnel with relevant qualifications and training. However, modern and professional tree management is still at an early stage of development in Hong Kong. For instance, there were less than 10 certified arborists in 2005. As such, raising professional standard of tree management and enhancing capacity building for tree management personnel are the key areas of work of the TMO.

My reply to Dr Kenneth CHAN's question is as follows:

(1) and (2)

Private property owners are responsible for the proper maintenance and management of the assets, equipment and facilities, including trees, on their property. We call upon and write to private property owners and management companies to engage professional contractors to inspect trees on their properties and carry out

appropriate risk mitigation measures as required to protect public safety.

The TMO organizes seminars on tree maintenance for private property owners, property managers and the general public every year. The TMO publicizes the responsibility for and the importance of tree maintenance, and encourage the public to report on problematic trees by various means such as issuing newsletter, advertorials, television and radio broadcasts, video clips, leaflets and websites.

Following the abovementioned tree collapse incident, officers of the TMO immediately arrived at the scene to make investigation and collect wood sample for further analysis. The TMO also dispatched staff to inspect the roadside trees in Central and Western District, and referred problematic trees identified to relevant departments and to the private property owners concerned through the Lands Department for immediate follow-up action.

The TMO also reminded the tree management departments and schools immediately to step up inspection of trees, and to be particularly vigilant in times of inclement weather and heavy rainstorm. It also strives to ensure that referrals of problematic trees received from the general public are handled expeditiously.

The TMO collaborated with the Home Affairs Department in organizing seminars on tree management on private property across the territory from late August to September this year to explain to the owners in detail the key issues in tree management and their related responsibilities.

The TMO created in August this year a column on "Information about tree maintenance for private properties" on its Trees website <http://www.trees.gov.hk> to provide information on the management and maintenance of trees on private properties including video clips of seminars, information on contractors and relevant professional personnel and institutes for easy reference of the public.

The TMO held a meeting on 23 August with the representatives from various arboriculture-related professional organizations and training institutions to discuss issues of manpower and qualification. All parties would work closely together to provide systematic training for tree management personnel of all levels and to raise the qualification requirements and professionalism of the industry.

The Government had raised various requirements for tree management work contractors so as to raise the quality of services. Based on previous experience, we have also enhanced the tree risk assessment guidelines to better protect public safety.

(3) Several years ago the authorities received proposals on tree legislation and considered that relevant legislations, technical guidelines and measures on tree preservation were already in place. As for the trees on private land, their management required personnel with professional qualifications and experience. But such personnel were in shortage and their training took time. It was difficult to implement the proposed legislation requirements. Some stakeholders also took the view that the Government should not interfere with the management of private property. As such, the authorities considered that it was not an opportune time to enact such a legislation then.

One of the prerequisites for the enactment of an ordinance on tree management is the adequate supply of qualified personnel with relevant experience to implement the required tree inspection and maintenance works. Therefore it has been the TMO's focuses in the past few years to systematically train up tree management personnel at different levels, standardizing professional requirement and to raise professional requirements. New programmes launched recently included advance diploma and professional diploma by post-secondary education institutes. While there has been an increase in the supply of personnel in recent years, the supply of experienced or adequately trained personnel is still in shortage.

In addition, the TMO has also been focusing on promulgating guidelines, best practices and conducting researches since its establishment. We have issued guidelines on tree selection, proper planting practices, pruning, transplanting, stonewall tree

management, tree maintenance to reduce tree risk, tree risk assessment and brown root rot, and so on. These were publicized to the industry and the public through seminars and webpages.

As revealed in the feedback from a recent seminar on tree management for private properties, the private property owners and property management companies are primarily concerned with the following issues: their responsibilities in tree management; selection of suitable contractors and professionals; and guidelines. The Administration will therefore continue to strive to improve the existing system and arrangements on publicity promotion, education, guideline promulgation and information dissemination.

Overseas experience shows that the "tree ordinances" of many overseas countries or areas are focused on the preservation of old and valuable trees, or protection of trees during development. Most countries or areas do not have any specific legislation that imposes mandatory requirements on when and how the private property owners should maintain their trees or regulates the qualification requirements of tree inspectors.

The introduction of the tree risk assessment and management arrangements by the TMO in 2010 has strained the supply of local tree management personnel. It took several years before the shortage situation eased. Moreover, we should be cautious on the enactment of an ordinance on tree management, as there will be significant impact on hundreds of thousands of private property owners. To protect public safety, it is crucial to ensure that the general public understand the importance of tree care and the risks of casualty and property damage posed by dangerous trees, and subsequent liability. That said, the measures for public education, enhanced provision of information to property owners, community surveillance and continue on training for professionals are crucial and can be promptly implemented.

The authorities keep a prudent and open attitude about enacting the proposed legislation on mandatory inspection of trees on private properties in the medium to long run. We are actively engaging in discussion with the stakeholders.

DR KENNETH CHAN (in Cantonese): *President, the Civic Party has been urging the Government to expeditiously enact legislation on tree management. I believe that apart from the Civic Party, other political parties and groupings likewise cherish the same aspiration. How many more years do we have to wait since the tree collapse accident that occurred in Stanley in 2008 before the Government deals with this issue?*

President, I am very dissatisfied with Secretary Paul CHAN's reply, and I feel like casting pearls before swine. He has put forth a whole lot of excuses, telling us that at present, private housing estates manage their trees with the assistance of those without the relevant qualifications or experience on the market, and that what the Government has done is education and education ― *I have read all the contents of the Secretary's reply. Due to inadequate government publicity and unclear messages, arbitrary pruning of trees can still be seen in many housing estates. More risks and accidents have thus arisen. Secretary Paul CHAN, how many more accidents are needed to prompt you to put forth a concrete timetable and route-map for legislation?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Dr Kenneth CHAN for asking the supplementary question.

President, Dr CHAN holds the view that the Government's education and publicity efforts are still marked by plenty of room for improvement. We will work harder in these aspects.

Speaking of the current situation, as I said a moment ago, having drawn reference from overseas experience, we have decided not to introduce any specific regulation on how owners should handle the trees within their private properties, including stipulating that this must be undertaken by people with specific qualifications and experience. As a matter of fact, four years have passed since the TMO was established in 2010. While the number of relevant professionals has increased as a result of its strenuous efforts in training, it is still insufficient. Although the Government intends to enact legislation, there has to be sufficient professionals on the market as support. I can tell Dr Kenneth CHAN and other Honourable Members that we are exploring ways to exercise regulation. Enacting a tree law is certainly one of the ways, but we must ask whether there are other ways that can achieve the same objective. This is possible, and we are now conducting related studies. President, for these

reasons, I feel sorry to say that I am not able to provide any concrete timetable at this moment.

DR KENNETH CHAN (in Cantonese): *President, Secretary Paul CHAN said in his reply to my supplementary question that regulating private … regulating private …*

PRESIDENT (in Cantonese): Dr CHAN, do you think the Secretary has not answered your supplementary question just now?

DR KENNETH CHAN (in Cantonese): *That is right. It seems that he has talked about something in his reply to the supplementary question, but he has not provided any details …*

PRESIDENT (in Cantonese): Please repeat the part that you think the Secretary has not answered.

DR KENNETH CHAN (in Cantonese): *What will come under regulation? Secretary Paul CHAN has said that he will give thoughts to the matter, and there will be a direction for regulation. But I must point out that many private properties in Hong Kong are already under the regulation of various government laws. Secretary Paul CHAN, please do not mislead us.*

PRESIDENT (in Cantonese): Dr CHAN, you have raised another issue. Just now, you asked the Secretary whether there was any timetable and route-map for legislation. The Secretary has already given a reply. If you want to raise another supplementary question, please queue up again and wait for your turn.

MR MICHAEL TIEN (in Cantonese): *President, the Secretary said just now that it was basically not a suitable moment to enact legislation on tree management ― we have heard this many times over all these years ― for the reason of insufficient qualified professionals on the market. He went on to say*

that in that case, for the purpose of enabling people to understand the importance of tree maintenance, stepping up public education was of paramount importance. Honestly, I must say that if education can solve all problems, then the Legislative Council will have no point to exist at all, and we can all be dismissed.

Just now, the Secretary also admitted that Hong Kong had a rich trove of trees, many of them had become mature and even aged. This sounds dreadful to people. This literally means that there are many time bombs around us, and we do not know who will become the next victim. Given his business background, the Secretary should know that the availability of professionals must be preceded by the presence of a market. Without a market, there will be no professionals. In that case, I must ask where the market comes from. Enacting legislation for the purpose of regulation will create a market …

PRESIDENT (in Cantonese): Mr TIEN, please state your supplementary question and refrain from giving a long speech.

MR MICHAEL TIEN (in Cantonese): *… Most ironically, it is the same Policy Bureau that requires the mandatory inspection of buildings and windows. Buildings above a certain age must undergo inspection.*

I want to ask the Secretary why the authorities cannot extend and apply this concept to trees in private housing estates, and stipulate that trees above a certain age or height must undergo periodic inspection and pruning. This is precisely the same as the random inspection of housing estates currently implemented by the Secretary — only buildings above a certain age must undergo inspection. While this will not impose a huge financial burden, this can also nurture a market and induce large numbers of professionals …

PRESIDENT (in Cantonese): Mr TIEN, you have already stated your supplementary question. Please let the Secretary give a reply.

MR MICHAEL TIEN (in Cantonese): *… Secretary, please give an answer because all this is done by the same Policy Bureau.*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr Michael TIEN for asking the question.

President, if the Government is to enact legislation for the purposes of introducing regulation and imposing a mandatory requirement on private property owners that they must carry out certain work, it is obligated to ensure an adequate supply of professionals on the market who can carry out such work. The Government should not enact any legislation for the purpose of regulation when such professionals are still insufficient on the market.

Over the several years since its establishment, the TMO has conducted a great deal of publicity and education in various aspects, along with the introduction of many guidelines on tree maintenance. If Honourable Members can find some time to browse through the relevant webpages, they will notice that the webpages contain pretty much information in various aspects, such as the selection, pruning and maintenance of trees, as well as tree diseases. In the future, can the authorities do more in these aspects? As Honourable Members have put forth their views, we will certainly pay more attention and continue to bring the relevant tasks to satisfactory completion.

Just now, Mr TIEN asked whether we would follow the example of building and window inspection and require that, for instance, trees above a certain height or age must undergo inspection. We do not think that we can adopt such an "across-the-board" approach, because the conditions of various types of trees vary. For instance, while some trees are not old, illnesses caused by bacterial infection may lead to their premature death or death from diseases.

For these reasons, we think that at this moment, community-wide tree observation is still the most important. On the other hand, various government departments will properly undertake risk assessment and management of trees within their respective portfolios under the risk-based mechanism. At the same time, we must educate and guide the public, so as to enable them to know that owners must bear legal liability for any casualties caused by the improper maintenance of trees if they are located within the parameters of their private lands and premises. The authorities will also provide information telling them how to select contractors and the qualifications required. At present, we think that it is more practical to step up the efforts in these aspects.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary's remark at the end of the main reply is very important. The Secretary says (I quote), "The authorities keep a prudent and open attitude about enacting the proposed legislation on mandatory inspection of trees on private properties in the medium to long run. We are actively engaging in discussion with the stakeholders." In other words, the Government has not refused to conduct studies on the idea of enacting a tree law. Therefore, I wish to ask the Secretary a question through the President. Can the Government submit a policy discussion paper to the relevant Panels of the Legislative Council for discussion purpose? If the Legislative Council can hold discussions based on a policy paper, Members can, through discussions, better understand the difficulties and problems relating to the enactment of a tree law and then identify a solution. This can also offer the Legislative Council and the public an opportunity for participation.*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, is it necessary to enact a tree law, or are there other means, for more effective tree management and maintenance work? In our view, we can discuss this issue from various angles and aspects. One example is that after the tree collapse incident at Robinson Road had happened, Mrs Regina IP from the New People's Party once met with the Development Bureau and put forth some useful views. We are now looking into her views.

I can promise Mr WONG Kwok-hing that the authorities will submit an information paper to the Panel on Development to set out the TMO's strategies and work concerning tree management since its establishment in 2010, as well as the general areas currently under study.

DR KWOK KA-KI (in Cantonese): *President, the accident or tragedy that happened on 14 August involving a woman could have actually been avoided. If the Government had learnt a bitter lesson from the tree collapse incident in Stanley in 2008 and commenced the enactment of legislation, it could have accomplished the task.*

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

The Secretary's main reply is devoid of any concrete figures whatsoever. I want to ask the Secretary if he can tell us the existing number of dangerous trees in the territory. He has also mentioned that there were only 10 arborists in 2005. Then, how many arborists are there at present? When will there be sufficient arborists who can offer protection to the public? If the Government is not working towards the objective of formulating a legal framework, how can it induce more people to join this profession? This is an "egg-and-chicken" issue. If the Government refuses to take the first step, there is bound to be no positive result. If the Government remains inactive like a tortoise in its shell, I do not think that even if we waited another five or 10 years … Well, how many more casualties are needed to convince the authorities to truly materialize this idea? But … Deputy President, I am now asking the Secretary to give us some concrete figures.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, we will definitely not link our legislative or tree management improvement work to the number of accidents involving casualties. One accident with casualties is already way too many. We definitely do not want to see any such accidents.

Deputy President, there are tens of millions of trees in the territory. As I said just now, the TMO adopts the tree risk assessment strategy in tree management. This area of work consists of two parts, one of which is the location. In view of limited resources and the large number of trees, we must consider how our resources can be optimized. We must take places with high pedestrian or vehicular flow as our first focus. The second focus is that after identifying these places, we will conduct inspection of the tree groups in these places, and take mitigation measures and follow-up actions if necessary.

At present, around 1.5 million trees are monitored by various government departments. This figure, however, does not cover the trees within the parameters of unleased government lands and country parks. The authorities will conduct inspection of these 1.5 million trees in phases. At present, around 900 trees under our monitoring may pose danger.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Monitoring Use of Public Funds by Tertiary Institutions Funded by UGC

7. **DR LAU WONG-FAT** (in Chinese): *President, it has been reported that the University of Hong Kong (HKU) has made huge amount of advanced payments for the University of Hong Kong-Shenzhen Hospital (Shenzhen Hospital) since its establishment, which it operates in collaboration with the Shenzhen Municipal Government, and such payments are unlikely to be recovered in the near future. In this connection, will the Government inform this Council:*

(1) whether it knows if the University Grants Committee (UGC) has required tertiary institutions funded by UGC (UGC-funded institutions) to notify UGC when they set up self-financing organizations outside Hong Kong to be operated collaboratively or independently, so as to ensure that such institutions do not use public funds to subsidize their self-financing projects;

(2) as the HKU has indicated that the operation of Shenzhen Hospital has all along been in compliance with the policy of no cross-subsidization set out in the UGC Notes on Procedures, whether it knows if UGC has carried out any verification to address public concern; and

(3) given the allocation of matching grants by the Government to UGC-funded institutions under the Matching Grant Scheme launched for the tertiary education sector, whether the authorities will investigate if the HKU has used the matching grants allocated to it by the Government to meet any expenses in relation to Shenzhen Hospital (including set-up costs and advanced payments)?

SECRETARY FOR EDUCATION (in Chinese): President,

(1), (2) and (3)

The HKU is an independent and autonomous statutory body, which enjoys institutional autonomy in conducting self-financing activities, including setting up jointly-run or self-administered establishments

outside Hong Kong. Nevertheless, the HKU as an institution funded by the UGC should ensure that its self-financing operations will not affect the core work of the institution in Hong Kong and that there is distinct separation of resources between self-financing operations and publicly-funded activities. The UGC Notes on Procedures provide that UGC resources should not be used to subsidize self-financing operations. To avoid cross-subsidization of non-fundable activities, institutions should charge self-financing activities of the relevant overheads. The UGC set up the Financial Affairs Working Group in 2011 to look at the financial situation of its funded institutions and study whether UGC funding had been used appropriately. The Working Group released its report in 2013, making recommendations on the cost recovery and cost charging mechanisms, and the demarcation and deployment of surpluses among self-financing activities, as well as the financial transparency of institutional finance. The Working Group will continue to monitor institutions' position of implementing such measures and the relevant progress.

According to the information provided to the UGC Secretariat by the HKU, in operating the Shenzhen Hospital, the HKU has been adhering to the policy on preventing cross-subsidization of non-fundable activities as laid down in the Notes on Procedures, and it also recovers from such activities the full cost for UGC resources consumed pursuant to the rules. It keeps separate operating accounts for the Shenzhen Hospital and the UGC funded activities. Furthermore, as required by the Notes on Procedures, the HKU, in addition to the annual audits of the financial statements compiled, has commissioned independent external auditors to provide separate assurance. As revealed by the findings of the independent auditors, the HKU has not used UGC funding for purposes other than those prescribed by the UGC and has not acted contrary to the guidelines or other regulations issued to institutions by the UGC. The UGC is satisfied with the audit results of the independent auditors.

According to the operating guide for all six rounds of Matching Grant Schemes, the HKU must not use the matching grants allocated under such Schemes and the matching private donations received to support any activities of the Shenzhen Hospital. As shown in the

independently audited reports submitted for these Schemes by the HKU, the independent auditors have not identified any irregularities suggesting that the HKU has failed to follow the Operating Guide to the Matching Grant Schemes (Operating Guide) regarding the use of matching grants and private donations.

The UGC will continue to monitor the HKU's compliance with the Operating Guide in the use of matching grants and private donations. The UGC will safeguard the principles of financial governance and ensure the proper use of public funds.

Screening for Breast Cancer in Women

8. **DR ELIZABETH QUAT** (in Chinese): *President, breast cancer is the most common cancer among females in Hong Kong, and ranks the third among cancers causing deaths of females in Hong Kong. In the Prevention and Screening for Breast Cancer published in April 2014, the Cancer Expert Working Group on Cancer Prevention and Screening (Working Group) of the Department of Health (DH) pointed out that breast cancer screening was proven to be beneficial for women with a higher risk of developing breast cancer. The Working Group therefore recommended that such women "should seek advice from doctors about whether they should receive breast cancer screening". On the other hand, as revealed by the Hong Kong Breast Cancer Registry Report No. 5 published in 2013 by the Hong Kong Breast Cancer Foundation (the Foundation), among more than 9 800 breast cancer patients covered by the Report, only 14.5% had a family history of breast cancer. The Foundation also pointed out that breast cancer screening for women currently implemented on the Mainland and in Taiwan and many Western countries had helped to reduce the mortality rates of breast cancer patients. In this connection, will the Government inform this Council:*

(1) whether it has compiled statistics on the current population of those women in Hong Kong belonging to groups with a higher risk of developing breast cancer;

(2) whether it will, in response to the recommendation by the Working Group, provide the needed medical consultation and breast cancer screening services for women with a higher risk of developing breast

cancer; if it will, of the details and the timetable; if not, the reasons for that; of the public healthcare institutions in Hong Kong currently offering breast cancer screening services to such women;

(3) *given that the Report of the Foundation indicated that most breast cancer patients had no family history of breast cancer, of the measures put in place by the Government to help this category of women to detect breast cancer and receive treatments as early as possible;*

(4) *given that some women have relayed that the waiting time for mammography and breast ultrasound scanning at public hospitals is too long, which might result in delay in their receiving diagnoses and treatments, whether the Government has measures in place to shorten the waiting time; if it does, of the details; if not, the reasons for that; and*

(5) *whether the Government will consider following the practices of the Mainland, Taiwan and other countries in implementing a breast cancer screening programme for women, and providing breast cancer screening services for women in need through public-private partnership or collaboration with non-profit-making women health centres in the community?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, cancer is a major public health issue. As early as in 2001, the Government established the Cancer Coordinating Committee (CCC), which is chaired by the Secretary for Food and Health and comprises members including cancer experts, academics, doctors in public and private sectors, as well as public health professionals, for effective prevention and control of cancer. The Cancer Expert Working Group on Cancer Prevention and Screening (CEWG) was set up under the CCC to regularly review and discuss the latest scientific evidence, local and worldwide, with a view to providing recommendations on suitable cancer prevention and screening measures for the local population.

In examining whether to introduce a population-based screening programme for a specific disease, the Government needs to carefully consider a number of factors, including the seriousness and prevalence of the disease locally,

accuracy and safety of the screening tests for the local population, as well as effectiveness in reducing disease incidence and mortality. The Government also needs to give due consideration to the actual circumstances, such as the feasibility, equity, cost-effectiveness of the screening programme and public acceptance.

As we have pointed out a number of times, population-based breast cancer screening by mammography is a subject of controversy. In the West where the incidence rate of breast cancer is relatively high, some countries have started to implement population-based mammography screening programmes since the 1980s. However, studies have found that there was only a slight drop or even no reduction in the mortality rate of breast cancer after the implementation of the screening programmes. Some studies also revealed that screening programmes have caused harm such as over-diagnosis and over-treatment. As a result, several Western countries are considering adjusting their breast cancer screening policies. Separately, while some Chinese or Asian communities (for example, Singapore and Taiwan) have implemented population-based breast cancer screening programmes, there is no comprehensive data published that could reflect the effectiveness or cost-effectiveness of the programmes. There are also no studies indicating that the programmes can effectively reduce the mortality rate of breast cancer.

Internationally, the latest 2013 systemic review of Cochrane Collaboration has shown that mammography screening likely reduces breast cancer mortality but it also leads to over-diagnosis and over-treatment. The review has concluded that it is unclear whether mammography screening does more good than harm. In December 2013, the Swiss Medical Board of the Switzerland published a report which has recommended the country to suspend the mammography screening programme because it leads to too many unnecessary interventions. On the other hand, a report released by Canada based on a large randomized controlled trial of more than 90 000 women in Canada has found that annual mammography does not reduce breast cancer mortality in women, but leads to substantial over-diagnosis, which has therefore suggested reassessing the value of mammography screening. Hong Kong should take reference from these latest evidences.

Basing on the above considerations and having thoroughly reviewed scientific information, the CEWG considers that there is insufficient evidence to recommend for or against population-based mammography screening in Hong

Kong, given that it is not clear whether screening does more good than harm to asymptomatic women. However, CEWG considers that individual women at increased risk of breast cancer women should seek medical assessment and advice about whether they should receive breast cancer screening. CEWG will continue to keep in view the latest developments on this subject. Meanwhile, the Government will continue to promote healthy lifestyles as the main prevention strategy, encourage breastfeeding and promote breast awareness among women, so that medical attention could be sought early if any abnormalities of the breast are identified.

As a matter of fact, the risk factors associated with many cancers are closely related to lifestyles. CEWG has pointed out that cancers, including breast cancer, can be effectively prevented through the adoption of healthy lifestyles, such as avoiding smoking and alcohol consumption, having regular exercise, eating less meat and more vegetables, and maintaining a healthy body weight. In this connection, the DH actively promotes healthy diets, encourages regular exercise, implements effective tobacco control measures and educates the public on alcohol-related harm, in order to prevent cancer.

Against the above background, my reply to the five parts of the questions is as follows:

(1) The Hong Kong Cancer Registry (the Registry) does not possess comprehensive statistics about women in Hong Kong belonging to the groups with a higher risk of developing breast cancer. At present, the Registry has collected data relating to new ductal carcinoma in-situ (DCIS) cases to facilitate the detection of the trend of pre-malignant abnormalities. According to the statistics of the Registry, there were 472 and 484 new DCIS cases in 2010 and 2011 respectively.

(2) and (5)

Given the lack of public health evidence supported by scientific soundness at present, the Government has no plan to introduce programmes or provide service through public-private partnership for population-based mammography screening. Women at high risk of developing breast cancer should seek advice from a doctor in order to make an informed choice on whether they should receive

mammography screening. At the same time, healthcare professionals have a duty to thoroughly explain the benefits and harms associated with mammography screening to women so as to facilitate them to make informed decisions about breast cancer screening for personal health. The DH operates three Woman Health Centres and 10 Maternal and Child Health Centres which provide Woman Health Service (WHS) to women aged 64 or below. The WHS includes clinical breast examination. Women at high risk of breast cancer may decide to receive mammography screening after medical assessment. If abnormalities are found, they will be referred to specialists for follow-up management.

Currently, there are a number of non-governmental organizations and private institutions providing mammography screening services. By making reference to CEWG's recommendations and focusing the services on women at higher risk of developing breast cancer, there could be more optimal use of healthcare resources.

(3) The Government will continue to promote health and disease prevention to the community, and provide targeted services on health promotion and disease prevention according to the health needs and risks of different population groups. A number of service units under the DH have been providing women with information on women's health as well as relevant community resources through different channels in an effort to facilitate women to make choices that are conducive to their health and to seek appropriate healthcare services where necessary. For prevention of breast cancer, the DH will continue to promote the practice of healthy lifestyles, encourage breastfeeding and promote breast awareness among women, so that medical attention could be sought early if any abnormalities of the breast are identified through regular review and comparing changes of the breast.

To increase the public's awareness and understanding of breast cancer prevention and screening, a bilingual booklet "Prevention and Screening for Breast Cancer ― Information for women and their families" jointly developed by CEWG and the DH is available on the website of the Centre for Health Protection <www.chp.gov.hk> for public information.

(4) The hospitals under the aegis of the Hospital Authority (HA) arrange mammography and breast ultrasound imaging services in accordance with the assessment of doctors. Those patients who are confirmed or suspected of having developed breast cancer and belong to the groups with a higher risk of developing breast cancer will be accorded priority for receiving such services. In 2013, around 95% of the patients who were accorded priority for such services completed the examination within two months. The HA will review its operation and services as appropriate to further improve its medical services provided to the public.

Cosmetic Products Tested on Animals

9. **MR CHAN HAK-KAN** (in Chinese): *President, it has been reported that the authorities world-wide are increasingly concerned about the practice of conducting animal testing in the research and development (R&D) of cosmetic products. The European Union (EU) has promulgated a ban on animal testing for cosmetic products which prohibits, from March last year, the sale in EU of newly manufactured cosmetic products and their ingredients which had been tested on animals. Countries like Japan, India and Brazil have also started to introduce related bans. In this connection, will the Government inform this Council:*

(1) of the current number of locally registered manufacturers of cosmetic products; whether it knows the number of such manufacturers who have conducted animal testing during the R&D of cosmetic products; whether the authorities will consider introducing legislation to ban such animal testing so as to prohibit cruelty to animals; if they will, of the details; if not, the reasons for that;

(2) whether it will encourage manufacturers and importers of cosmetic products to sign the charter for "cruelty-free cosmetics" and pledge not to sell cosmetic products that have been tested on animals during the R&D process;

(3) *whether it will consider introducing a labelling system to require that cosmetic products for sale in Hong Kong must show clearly whether they have been tested on animals during the R&D process, so as to help consumers choose cosmetic products that are animal test free;*

(4) *whether it will consider introducing legislation to ban the import of cosmetic products that have been tested on animals during the R&D process; if it will, of the legislative timetable; if not, the reasons for that; and*

(5) *whether it has plans to promote the message of "cruelty-free cosmetics", such as that animal testing during the R&D process of cosmetic products is unnecessary, and to encourage the public to purchase cosmetic products that are animal test free; if it does, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, over the years, the Government has been striving to promote in the community a culture of care for animals with a view to protecting animal welfare. The Prevention of Cruelty to Animals Ordinance (Cap. 169) aims at combating acts of cruelty to animals. Under this Ordinance, any person who cruelly beats, kicks, ill-treats, over-rides, over-drives, overloads, tortures, infuriates or terrifies any animal, or by wantonly or unreasonably doing or omitting to do any act, causes any unnecessary suffering to any animal commits an offence and shall be liable on conviction to a fine of $200,000 and imprisonment for three years.

The Consumer Goods Safety Ordinance (Cap. 456) protects consumers by regulating the safety of consumer goods ordinarily sold for private use (including cosmetic products without pharmaceutical ingredients). Under this Ordinance, consumer goods must comply with the "general safety requirement", that is, be reasonably safe. The Customs and Excise Department, being the enforcement agency for the Ordinance, will primarily consider the relevant safety standards promulgated by standards institutes for determining whether consumer goods comply with the abovementioned requirement.

My reply to the various parts of the question is as follows:

(1) According to the statistics collated by the Census and Statistics Department (C&SD), in 2013 there were a total of 30 manufacturers of cosmetics, perfumes and toilet preparations in Hong Kong. The Government does not have information on whether these manufacturers conduct animal testing during the R&D activities for cosmetic products.

Acts of cruelty to animals in Hong Kong are primarily dealt with through the Prevention of Cruelty to Animals Ordinance. The Government has no plan for the time being to prohibit by law the possible conduct of animal testing in R&D activities for cosmetic products. That said, we will continue to keep abreast of discussions at the international level on this issue and keep in view the actual situation in Hong Kong, so as to ensure that our policy keeps pace with changes in circumstances.

(2) According to the information that we have collected on overseas practices, the main purpose of conducting animal testing in R&D activities for cosmetics by the manufacturers is to help ascertain whether the products concerned are hypoallergenic and can be used safely on human bodies. However, some advocates for animal rights in overseas economies consider that animal testing may cause harm to animals and that other methods are available to serve the purpose of ascertaining the safety of cosmetics products and their ingredients. They therefore advocate that the manufacturers of cosmetic products should be prohibited from conducting animal testing in the development of new cosmetic ingredients.

To this end, the British Union for the Abolition of Vivisection has established the Cruelty Free International to promote the abolition of animal testing in cosmetic product development and introduced the "Leaping Bunny" certification programme to grant trade mark certification for brands of cosmetic products and personal care products which do not involve the conduct of animal testing(1).

(1) To help consumers make an informed choice, cosmetic and personal care products meeting the requirements of the "Leaping Bunny" programme will be allowed to use the Leaping Bunny mark. These requirements include (1) not conducting or commissioning any new animal testing; (2) using only new ingredients of which the safety to the human body can be confirmed without animal testing; and (3) not selling cosmetic products in countries with mandatory requirements for animal testing.

According to the information available on the website of the Cruelty Free International, there are 29 brands of cosmetic products and personal care products available in Hong Kong which have been given the "Leaping Bunny" mark.

We believe that the "Leaping Bunny" certification programme has helped raise the awareness of the cosmetic industry and the public about animal testing in cosmetics production. The Government does not have any plan to introduce a charter for "cruelty-free cosmetics".

(3) According to the information from the C&SD, Hong Kong imports a considerable amount of cosmetic products from other places every year. Introducing a labelling scheme on animal testing in Hong Kong may have implications on the variety and price of cosmetic products available for sale locally. We have to carefully strike a balance among different considerations.

The Government has no plan for the time being to introduce a labelling scheme on cosmetic products for sale in Hong Kong whereby it is a requirement to show whether animal testing was conducted during the R&D process. We note that many exporting countries of cosmetic products have commenced studies on the regulation of animal testing during the R&D process as well as the sale of the relevant cosmetic products. In addition, some players in the cosmetic industry, both local and overseas, have taken the initiative to join the "Leaping Bunny" certification programme. This serves to help enhance public awareness about animal testing in R&D activities for cosmetic products.

(4) As mentioned in part (3) above, many of the cosmetic products available on the local market are imported. Imposing import control on such products would have implications on the variety and price of cosmetic products supplied in the local market. For the time being, the Government has no plan to prohibit the import of cosmetic products that have involved animal testing in the R&D process.

(5) As mentioned in part (2) above, the "Leaping Bunny" certification programme spearheaded by the international community readily serves to raise the awareness of the cosmetic industry and the public about animal testing in R&D activities for cosmetic products. We will closely monitor developments in this respect to facilitate future decision making on whether there is need for introducing appropriate measures in support of the cause of protecting animal welfare.

Implementation of Mainland/Hong Kong Closer Economic Partnership Arrangement in Financial Services

10. **MR NG LEUNG-SING** (in Chinese): *President, a report on Policy Development Proposals on the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA), published by the Financial Services Development Council (FSDC) last month, has pointed out that under the current CEPA framework, there is still considerable room for development in various areas of the financial services industry, and put forward nine specific policy recommendations. In this connection, will the Government inform this Council:*

(1) whether a communication mechanism between the Government and the Mainland authorities is currently in place for regular review of the implementation situation and progress of CEPA in the financial services industry; if so, of the details and the findings of the latest review; if not, the reasons for that; and

(2) whether it has conducted any assessment on the feasibility of the nine recommendations of the report; if it has, of the assessment outcome and its plan for implementing such recommendations; if not, whether it will do so expeditiously?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President,

(1) The Hong Kong Special Administrative Region (HKSAR) Government has been promoting financial co-operation between Hong Kong and the Mainland under the CEPA and other regional co-operation platforms covering Guangdong/Hong Kong,

Shanghai/Hong Kong and Shenzhen (including Qianhai)/Hong Kong. Since the introduction of CEPA, the Mainland and Hong Kong have been maintaining close liaison on CEPA implementation through established mechanisms at central, provincial and municipal levels. A new Joint Working Group was also established in 2013 to further enhance the existing mechanism for the implementation of CEPA. The HKSAR Government will continue to work closely with the Mainland authorities for the effective implementation of CEPA.

(2) The HKSAR Government welcomes the report on the "Mainland and Hong Kong Closer Economic Partnership Arrangement" released by the FSDC. A number of constructive proposals are raised in the report for further facilitating the access of the banking, securities, futures, asset management and insurance industries of Hong Kong into the Mainland market. Some reflect the long-term aspirations of the industries, and some are being actively pursued. In 2011, the Central Government announced that it would strive to basically achieve full liberalization of trade by the end of the 12th Five-Year Plan period. Since then, the HKSAR Government has been working together with the Central Government in pursuing this initiative. The HKSAR Government has also discussed actively with the relevant Mainland authorities in light of the views of the industry, including the various proposals raised by the FSDC, and will assess the feasibility of the proposals. The HKSAR Government will continue to maintain close liaison with the relevant Mainland authorities, seeking to provide the financial services sector with greater access to the Mainland market through CEPA and other regional co-operation platforms. This will complement China's reform and opening up policies, not only serving the Mainland's real economy better, but also facilitating the "going global" of Mainland enterprises, thus resulting in mutual benefits.

Home-schooling

11. **MR DENNIS KWOK** (in Chinese): *President, according to sections 74 and 78 of the Education Ordinance (Cap. 279), where it appears to the Permanent Secretary of the Education Bureau that a child is not attending*

primary school or secondary school without any reasonable excuse, the Permanent Secretary may, after making such inquiries as he considers necessary, serve upon a parent of the child an attendance order requiring him to cause the child to attend regularly as a pupil the primary school or secondary school named in the attendance order; and any parent who without reasonable excuse fails to comply with an attendance order shall be guilty of an offence. The Ordinance has not specified how parents may lawfully home-school their children and the related application procedure. However, it is learnt that legislation to regulate home-schooling for children has been enacted in developed places like Taiwan and Singapore. In this connection, will the Government inform this Council:

(1) of the current number of school-age children who have been approved by the Education Bureau to be home-schooled, and the details of the relevant vetting and approval procedures; whether it has any plan to upload such statistics as well as such vetting and approval procedures onto the Education Bureau's website, and to promote the learning mode of home-schooling; and

(2) since some members from the education sector have pointed out that as Hong Kong's current education system is very rigid, holding examination results as the teaching goal, and coupled with teachers being overloaded, students tend to learn by rote and the needs of individual students cannot be met, whether the Education Bureau will consider putting in place a home-schooling system for children and setting up a task force to formulate the relevant policies so as to provide an additional option on learning mode for students to choose; if it will, of the details; if not, the reasons for that?

SECRETARY FOR EDUCATION (in Chinese): President, the consolidated reply to the two parts of the question is as follows:

The Government provides nine years of free and universal basic education to children aged between six and 15. According to sections 74 and 78 of the Education Ordinance (Cap. 279), parents have a legal responsibility to ensure that their children within these ages attend school regularly. When cases involving school-age children failing to attend school regularly are found, officers of the Education Bureau will contact the parents concerned or make home visits to see if

the educational needs of the children have been properly addressed. The cases will also be assessed and followed up regularly. If the parents insist on keeping their children at home without valid reasons, the Permanent Secretary of the Education Bureau may issue an attendance order under the Education Ordinance, requiring the parents to send their children to school.

The Education Bureau holds that school education provides children with a broader and more structured formal curriculum as well as rich learning experiences, and creates an environment where students can interact and exchange ideas among peers and with teachers. All these are essential for the all-round development of children in the areas of ethics, intellect, physique, social skills and aesthetics. Hence, the Education Bureau does not encourage home-schooling in place of formal school education.

The curriculum framework for both primary and secondary levels is designed to provide students with structured learning experiences. Generally speaking, schools have a more comprehensive range of hardware and software compared with family settings and they are better positioned to cater for the individual needs of students. Whilst students differ in maturity, personality, ability, interests and socio-economic backgrounds, their differences may also be resources for learning and teaching. Through appropriate school-based curriculum, teaching strategies and assessment methods together with interaction among fellow students at the same or different class levels, students will have their perspectives enriched. Also, students can gain a more balanced development both as a unique individual and a member of a group.

Based on the above, the Education Bureau is of the view that it is not necessary to set up a task force on home-schooling. While we would not as a rule disallow home-schooling, for the interest of the children, we would examine it case by case taking into account relevant factors on whether the family is likely to be able to provide children with all-round education. Currently, there are 25 such cases. Parents who wish to home-school can write or email to the Education Bureau seeking an assessment.

Replacement of Catalytic Converters and Oxygen Sensors of Taxis and Light Buses Fuelled by Petrol and LPG

12. **MR WU CHI-WAI** (in Chinese): *President, in April 2012, the Finance Committee of the Legislative Council approved an allocation of $150 million to*

the Environmental Protection Department (EPD) for implementing a scheme to provide a one-off subsidy to vehicle owners for replacement of the catalytic converters and oxygen sensors of their taxis and light buses fuelled by petrol and liquefied petroleum gas (the replacement scheme), which was launched late last year. Recently, I have received complaints from some members of the transport industry who pointed out that the relevant catalytic converters were of problematic quality. The poor performance of these catalytic converters when compared with the previous ones has resulted in frequent engine stalling in some of the vehicles soon after installation of the catalytic converters. Such persons are also dissatisfied with the EPD's refusal to make public the performance test report of the relevant catalytic converters. In this connection, will the Government inform this Council:

(1) of the number of complaints received by the EPD about the catalytic converters since the launch of the replacement scheme, and the follow-up actions taken on such complaints;

(2) of the tender conditions in respect of the catalytic converters; the respective weightings of bidding price and other considerations in the EPD's selection of suppliers and whether the suppliers were required to provide guarantees for the service life and quality of the catalytic converters; if so, of the details; if not, the reasons for that;

(3) as the EPD has indicated that the failures of the catalytic converters were related to poor vehicle maintenance and repair, whether the EPD has ascertained from those drivers of vehicles having problems with catalytic converters if they have changed the maintenance and repair procedures for their vehicles since they used the newly installed catalytic converters; if the EPD has, of the details; if not, the reasons for that; and

(4) whether the EPD has conducted any longitudinal study on the quality of the catalytic converters selected in the tender, in order to gauge their long-term performance; if the EPD has, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, proper vehicle repair and maintenance (including timely replacement of aged catalytic converters, repair of ignition and air fuel ratio control related components such as mixer, evaporator and exhaust gas regeneration valve, and so on) is vital to ensure that vehicles operate smoothly and with low emissions. Proper vehicle repair not only reduces vehicular emissions but also improves driving performance and lowers fuel consumption.

In 2011, the EPD together with the taxi trade collected maintenance data from more than 600 taxis and found that poorly maintained liquefied petroleum gas (LPG) vehicles could have emissions that exceed normal levels tenfold. To properly repair and maintain vehicles, repairing faulty engines is also very important on top of replacing timely aged catalytic converters. We have already shared such results with the taxi trade through seminars.

The Government has subsidized LPG/petrol taxi and light bus owners to replace catalytic converters of their vehicles to reduce emissions. With the support from the Legislative Council and the taxi trade to the replacement scheme, the Finance Committee of the Legislative Council approved in April 2012 an allocation of $150 million to the EPD to provide a one-off subsidy to about 21 000 LPG/petrol taxi and light bus owners for replacing the catalytic converters and oxygen sensors. The voluntary replacement scheme was launched in August 2013. It received applications in three stages and was completed in April 2014. With 13 942 taxis and 2 881 light buses enrolled in the scheme, the overall participation rate was around 80%.

To ensure the quality of catalytic converters, the EPD imposed the catalytic converter's performance specifications and strict quality control requirements in the tender documents, including random checking for each batch of its main catalytic component (that is, precious metals) content to ensure their performance. Also, catalytic converters suppliers are required to provide 12 months' warranty to owners of vehicles concerned. This warranty is normally not provided under existing trade practices, and the arrangement provides much better protection for vehicle owners.

We also have put in place handling procedures for processing warranty claims under the replacement scheme, including checking whether the precious metal content of catalytic converters complied with the specifications and

requiring manufacturers of catalytic converters to investigate damaged catalytic converters. If the report finds no problem with the quality of the product, we will invite experts from the Vocational Training Council (VTC) to give us third party advice to ensure fairness to and protection for vehicle owners. We will also inform vehicle owners of the examination results.

With respect to the questions raised by Mr WU Chi-wai, our reply is as follows:

(1) The EPD handles all warranty claims under the replacement scheme in accordance with established procedures. When a vehicle owner who has joined the scheme asks for replacement of its catalytic converter under the terms of warranty, the EPD will handle accordingly. Up to the end of September this year, catalytic converter suppliers had received a total of 93 warranty claims, all of which had been dealt with accordingly. For cases in respect of which investigations had been concluded, the results indicated that damage to the converters was due to improper maintenance of the engine or use of poor quality engine oil rather than the quality of the converters;

(2) The EPD's procurement for subsidizing taxi and light bus owners to replace catalytic converters and oxygen sensors was conducted in a fair and open manner. It was in line with the established tendering procedures of the Government.

The conditions of tender were set with reference to the performance and specifications of converters rather than the producers or places of manufacture in order to allow fair competition among products of different brands in the local market. Vehicle owners would then have more choices in purchasing the service parts. The EPD also set strict quality control requirements, including random checking of its main catalytic component (that is, precious metals) content for each production batch to ensure their performance. In addition, suppliers are required to provide 12 months' warranty to the owners of their catalytic converters. This warranty is normally not provided under existing trade practices, and the arrangement provides much better protection for vehicle owners.

To ensure that the garages providing replacement service are competent in delivering the services required under the tender, the tender document has stipulated that each tenderer can only submit one tender and as at the tender closing date, tenderers should engage in the vehicle maintenance business at one or more garages in Hong Kong. We also specified in the service contract that the garages need to provide three months' warranty for their installation.

During tender evaluation, we will firstly ensure that the bidder can fulfil all the tender requirements. Then based on the lowest bid principle, we will award contracts to those who are in full compliance with the requirements of the tender. The Government's level of subsidy is determined with reference to the amount of the minimum bid price. We have engaged two catalytic converters suppliers and more than 50 replacement service garages in order to increase competition, so that the owners can have more choices. If an individual supplier or garage's bid price is higher than the prescribed amount of subsidy, vehicle owners who choose its services will have to pay for the price difference.

(3) When a vehicle owner who has joined the scheme asks for replacement of its catalytic converter under the terms of warranty, the EPD will contact the owner to follow-up. As mentioned above, we will check whether the precious metal content of the catalytic converter complied with the specifications and require its manufacturer to investigate damaged catalytic converters. If the report finds no problem with the quality of the product, we will invite experts from the VTC to examine the report as a third party and give advice to ensure fairness to and protection for the owner. We will also inform the vehicle owner of the examination results so that he can follow up with his garage; and

(4) Catalytic converters replaced under the replacement scheme can enjoy 12 months' warranty. If there is any problem with the catalytic converter, owners can submit warranty claims against the suppliers. Among the cases that the EPD has completed investigations, we found that damage to the vehicle's catalytic converter is due to improper engine maintenance or use of poor quality engine oil and has nothing to do with the quality of catalytic converter.

Occupational Safety and Industrial Accidents

13. **MR POON SIU-PING** (in Chinese): *President, regarding Hong Kong's occupational safety and industrial accidents, will the Government inform this Council of:*

(1) the casualties caused by industrial accidents since January this year, and their breakdowns by industry;

(2) the annual number of cases since 2012 in which the authorities instituted prosecutions against employers by invoking the Occupational Safety and Health Ordinance (Cap. 509) and the Factories and Industrial Undertakings Ordinance (Cap. 59), including their subsidiary regulations, as well as the average and highest fines/terms of imprisonment imposed on the convicted employers; and

(3) the respective numbers of cases since 2012 in which the authorities instituted, by invoking the Employees' Compensation Ordinance (ECO) (Cap. 282), prosecutions against employers for failing to give notices of work accidents of employees as required or for providing false or misleading information when giving notice of work accidents, as well as the average and highest fines/terms of imprisonment imposed on the convicted employers?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Mr POON Siu-ping's question is set out below:

(1) The information on industrial injuries and fatal cases in the first quarter of 2014, and the respective breakdowns by industry, are as follows:

Industry sector	*Number of injured persons*	*Number of deaths*
Construction	662	10
Food and Beverage Services	1 211	0

Industry sector	*Number of injured persons*	*Number of deaths*
Manufacturing	373	0
Others	219	0
Total	2 465	10

Note:

Industrial accident statistics are compiled on a quarterly basis and the latest available statistics are up to the first quarter of 2014. The industrial accident statistics for the first half of 2014 will be released in late October 2014.

As at 30 September 2014, the provisional number of industrial fatal cases was 21, among which 17 cases occurred in the construction industry (including the abovementioned 10 fatal cases), three cases involved container handling activities and one case in the transportation industry.

(2) The relevant figures in respect of prosecution against employers, contractors and proprietors, and so on, under the Occupational Safety and Health Ordinance, the Factories and Industrial Undertakings Ordinance and their subsidiary regulations since 2012 are as follows:

	2012	*2013*	*2014 (Jan-Aug)*
Total Number of summonses heard	2 171	2 439	1 463

The average fines and the highest fines for common offences are as follows:

Failure to provide and maintain safe plant and system of work (Maximum statutory fine: $500,000 and imprisonment for 6 months)	*2012*	*2013*	*2014 (Jan-Aug)*
Average fine	$13,822	$15,281	$21,903
Highest fine	$60,000	$50,000	$120,000

Failure to provide information, instruction, training and supervision (Maximum statutory fine: $500,000 and imprisonment for 6 months)	*2012*	*2013*	*2014 (Jan-Aug)*
Average fine	$11,343	$12,022	$18,429
Highest fine	$20,000	$50,000	$80,000
Failure to take adequate steps to prevent person from falling from a height (Maximum statutory fine: $200,000 and imprisonment for 12 months)	*2012*	*2013*	*2014 (Jan-Aug)*
Average fine	$14,173	$15,555	$15,803
Highest fine	$50,000	$60,000	$90,000

Note:

In general, cases of contravention of occupational safety and health legislation would involve more than one offence. For example, arising from an industrial fatal case, a contractor was fined $200,000 in total in January 2014 for violation of two offences under the Factories and Industrial Undertaking Ordinance.

(3) Section 15 of the ECO stipulates that an employer must notify the Commissioner for Labour of an accident within a statutory period using a prescribed form. The notice period for a fatal case is seven days whilst that for a non-fatal case is 14 days. An employer who, without reasonable excuse, fails to give notice of an accident or makes or furnishes any false or misleading statement to the Commissioner for Labour commits an offence and is liable to a maximum fine of $50,000 upon conviction. The relevant figures in respect of prosecution, the average fine and the highest fine for contravening section 15 of ECO since 2012 are as follows:

	2012	*2013*	*2014 (Jan-Aug)*
Total Number of summonses heard	4	2	1*
Average fine	$3,950	$3,350	-
Highest fine	$5,000	$4,000	-

Note:

* The defendant involved was not convicted.

Air Traffic Movements at Hong Kong International Airport

14. **MR KENNETH LEUNG** (in Chinese): *President, it has been reported recently that quite a number of flights have been delayed in taking off from or landing at the Hong Kong International Airport (HKIA) due to the implementation of air traffic flow control by the Mainland authorities. There have also been press comments pointing out that the People's Liberation Army Air Force requires that an aircraft departing from Hong Kong must reach an altitude of over 15 700 feet before it enters the Mainland airspace (such altitude restriction is commonly known as the "sky wall"). The sky wall has lengthened flight times and prevented the existing two-runway system of HKIA from optimizing its operation efficiency, thus affecting air traffic movements. Besides, some concern groups have recently pointed out that the northbound routes recommended in the 1992 New Airport Master Plan have still not been opened. In this connection, will the Government inform this Council:*

(1) of the number of times the Airport Authority or the Civil Aviation Department (CAD) was notified by the Mainland authorities of the implementation of air traffic flow control (broken down by Mainland airspace over which air traffic flow control is implemented) and the total number of hours of delay in aircraft arrivals and departures caused by such control since 2010;

(2) of the number of flights which were delayed in taking off from or landing in Hong Kong due to the implementation of air traffic flow control by the Mainland authorities, with a breakdown of the number by flight destinations and its percentage in the total number of aircraft movements, in each year since 2010, set out in the following table;

Year	*Number of flights*	*Flight destinations*							*Percentage in the total number of aircraft movements of the year*
		Mainland	*Middle East*	*Europe*	*Americas*	*South-east Asia*	*North-east Asia*	*Africa*	
2010									
2011									
2012									

Year	*Number*	*Flight destinations*							*Percentage*
2013									
2014 (up to September)									

(3) whether it conducted any study in the past three years on the effects of the "sky wall" on the number of aircraft movements; if so, of the details; if not, whether the authorities can undertake to conduct the study and publish the results; and

(4) of the reasons why the northbound air routes have still not been opened?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, our reply to the various parts of Mr Kenneth LEUNG's question is as follows:

(1) and (2)

The CAD has been monitoring closely the situation of delayed departure flights for the Mainland. The statistics from 2010 to September 2014 are set out below:

Year	*Number of notifications to Hong Kong on airspace control implemented by the Mainland*	*Number of delayed departure flights caused by airspace control implemented by the Mainland*	*Percentage in the total number of departures (%)*	*Average delay time (minutes)*
2010	468	3 795	2.5	40
2011	303	1 490	0.9	51
2012	375	2 639	1.5	58

Year	*Number of notifications to Hong Kong on airspace control implemented by the Mainland*	*Number of delayed departure flights caused by airspace control implemented by the Mainland*	*Percentage in the total number of departures (%)*	*Average delay time (minutes)*
2013	439	2 937	1.6	64
2014 (from January to September)	369	2 928	2.0	70

Separately, the CAD does not have any breakdown on airspace control implemented by the Mainland or on the destinations of the delayed flights, nor the statistics regarding delayed arrival flights from the Mainland.

(3) To make sure that aircraft in adjacent airspaces could operate in a safe and efficient manner, an aircraft must reach a certain altitude before an air traffic control (ATC) unit may hand over the control in respect of that aircraft to another ATC unit. This is to ensure that when aircraft in adjacent airspaces fly in opposite directions, they could keep flying at different altitudes to prevent collisions. This air traffic management arrangement for flights to be separated by altitudes seeks to safeguard flight safety, and is commonly applied by busy airports all over the world, including those in London and New York. This arrangement has no direct relationship with the time interval and space separation between runway movements, and hence does not affect runway capacity.

Given the close proximity between HKIA and its Shenzhen counterpart and the fact that the two airports are separately managed by two ATC units in Hong Kong and the Mainland, an aircraft

departing from HKIA must reach the designated handover altitude of 15 700 feet before it can enter the Mainland's airspace. This designated altitude requirement is also applicable to aircraft flying from the Mainland into Hong Kong's airspace. After discussing with the Mainland's ATC unit, the two sides have since 2005 lowered the handover altitude from 15 700 feet to 12 800 feet during specified non-peak hours at night (that is, from 11 pm to 7 am the following day), thereby minimizing detours made by aircraft.

(4) In accordance with the international standards and recommendations promulgated by the International Civil Aviation Organization, the development of flight paths should take into account the terrain environment, runway alignment, the prescribed obstacle clearances, airspace co-ordination with nearby airports, and so on.

Due to the constraints presented by the high mountains around HKIA, and after giving due consideration to the relevant factors above, the two runways of HKIA are operating under an independent segregated mode of operations (that is, the North Runway is used exclusively for arrivals and the South Runway exclusively for departures), and it is not necessary to use flight paths north of the airport under this mode of operations.

According to a runway capacity analysis for HKIA in 2008 conducted by the UK aviation consultant, the National Air Traffic Services, which is commissioned by the Airport Authority Hong Kong, the practical maximum capacity that can be achieved by the two runways of HKIA is 68 movements per hour. Over the years, through continuous improvements to flight procedures and operations, and efforts to optimize airspace structure as well as to increase the manpower of air traffic controllers and upgrade infrastructural facilities at the airfield, the CAD has gradually increased the capacity of the two runways in accordance with air traffic demand, from 50 movements per hour in 2004 to the current 65 movements per hour. The CAD will continue to further increase the capacity of the two runways to their practical maximum capacity of 68 movements per hour in 2015.

Progress of Granting Domestic Free Television Programme Service Licences

15. **MR FREDERICK FUNG** (in Chinese): *President, in October last year, the Chief Executive in Council approved in principle the applications of two organizations for a domestic free television programme service (free TV) licence. It has been reported that one of these organizations indicated in August this year that it was still discussing with the Communications Authority (CA) the conditions and detailed provisions of the licence, but the progress was unsatisfactory. The organization also criticized that "the regulatory framework required new operators to be subject to regulation which was far more stringent than that faced by existing licensees, in total disregard of the unparalleled advantages enjoyed by existing operators", thus rendering it difficult for the objective of opening up the free television market to be achieved. In this connection, will the Government inform this Council:*

(1) of the latest progress of the authorities' issuance of formal licences to the aforesaid two organizations and the formulation of relevant codes of practice;

(2) given the fact that an existing free television broadcaster is currently dominating the market, whether the authorities will, when formulating the regulatory framework, consider implementing measures or arrangements that will provide a less stringent operating environment for the new operators at the initial stage; if they will not, of the reasons for that, and whether they have considered if this would make it impossible for the new operators to compete fairly with that existing television broadcaster in the short term; and

(3) of the earliest time the authorities expect under the present situation when the two organizations whose applications were granted approval-in-principle can start broadcasting?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, on 15 October, 2013, the Government announced that the Chief Executive in Council had decided to grant approvals-in-principle to the applications for domestic free TV licences from Fantastic Television Limited (Fantastic TV) and HK Television Entertainment Company Limited (HKTVE),

subject to the Chief Executive in Council's further review and final determination under the Broadcasting Ordinance (BO) (Cap. 562) at the second stage.

My reply to the three-part question is as follows:

(1) As understood, the CA has immediately proceeded with the follow-up work after the announcement of the aforementioned decision and required Fantastic TV and HKTVE to submit further information on a number of issues as follows:

(i) updated free TV licence applications reflecting changes agreed since the first submission;

(ii) further information, including statutory declarations, undertakings and legal opinions, for the purpose of verifying the corporate statuses of Fantastic TV and HKTVE after the proposed corporate restructuring; and

(iii) confirmations and undertakings for the purpose of implementing other requirements imposed by the Chief Executive in Council when approvals-in-principle were granted in last October.

Over the past few months, with its follow-up work entering into a later stage, the CA has been in more frequent negotiations with the two applicants. Specifically:

(i) HKTVE, in response to the CA's request, confirmed with the CA in end of May 2014 that the corporate restructuring proposed in its application had been completed. The CA is now verifying whether HKTVE's corporate status after corporate restructuring can comply with the requirements under the BO that a free TV licensee shall not be a subsidiary of a corporation. Fantastic TV has not commenced the corporate restructuring proposed in its application. It was not until end of July 2014 that Fantastic TV submitted its new restructuring proposal to the CA, which is now following up with Fantastic TV;

(ii) the Chief Executive in Council's approvals-in-principle were given and the CA's present follow-up work has been carried out on the basis of the application contents as at the time of the grant of the approvals-in-principle, including the proposals to deliver the free TV services via fixed networks. The two applicants, in response to the CA's request, confirmed with the CA in late June that the follow-up work for the applications would continue to be proceeded on the aforesaid basis;

(iii) in relation to the confirmations and undertakings necessary for implementing the requirements as imposed by the Chief Executive in Council in granting the approval-in-principle last October and agreed by the two applicants, the CA has held several rounds of discussions with the two applicants and will continue to follow up; and

(iv) in relation to proposed licence conditions in the draft licences issued to the two applicants on 1 April 2014, the CA has been continuously negotiating with them.

As for the Codes of Practice, if Fantastic TV and HKTVE are formally granted the licences eventually, they are required to comply with all the Generic Codes of Practice on Television issued by the CA, which clearly set out the standards on programme, advertising and technical matters for free TV licences.

(2) In announcing the grant of approvals-in-principle to Fantastic TV's and HKTVE's applications, the Chief Executive in Council has expressed clearly that any new free TV entrants should be subject to more or less the same licence conditions as applicable to the incumbent licensees. However, considering that the potential new free TV licensee(s), unlike the incumbents, would not make use of frequency spectrum to deliver the proposed free TV services, the CA has adopted a more relaxed approach in handling certain licence conditions (for instance, in relation to the positive programme requirements).

(3) I believe that the CA will continue to actively see to the follow-up work with Fantastic TV and HKTVE, with a view to responding to the keen public expectations of an early introduction of new free TV services. Upon receipt of recommendations from the CA, the Chief Executive in Council will make the final determination.

Optimal Use and Fair Allocation of Spectrum Resources

16. **MR CHARLES PETER MOK** (in Chinese): *President, digital terrestrial television (DTT) services were launched at the end of 2007. The authorities have indicated their intention to switch off analogue television services at the end of 2015, subject to the outcome of further market and technical studies. The authorities are considering the applications of the two free-to-air television stations for renewal of domestic free television programme service licences (free TV licences), the result of which may affect the future allocation of spectrum. Furthermore, at the end of last year, some free-to-air television stations were fined for contravening the requirement on sharing equally the transmission capacity in the Multiple Frequency Network (MFN). Regarding the optimal use and fair allocation of precious spectrum resources, will the Government inform this Council:*

(1) whether it has considered deferring the date of analogue television services switch-off (ASO); if it has, whether it will adjust the relevant considerations; if it will, of the details; what measures the authorities will take to expeditiously achieve the ASO target;

(2) of the respective transmission capacities of analogue television services spectrum which are in use and left idle; of the transmission capacity of the spectrum to be released following ASO; whether it has estimated the utilization rate of the released spectrum in the first three years;

(3) how it ensures the efficient use of the spectrum to be released following ASO, and that more competition will be introduced into the free-to-air television market; whether it will consider allocating spectrum rights by auction; if it will, of the details; whether it will

consider amending the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) to improve the auction mechanism concerned; and

(4) *of the current allocation ratios and utilization situations of spectrum among various television stations, and whether it knows if there is any television station which has not fully utilized the transmission capacity of the spectrum allocated to it; if there is, of the details; whether the authorities have any mechanism in place to recover the transmission capacity of spectrum which is left idle by television stations; if so, of the details?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, my reply to the four parts of the question is as follows:

(1) Having regard to the relevant factors, including the actual implementation situation of the DTT services in Hong Kong at that time and the prevailing market situation (for example, the coverage and take-up rates of DTT services), the Administration decided in June 2011 to set the target date for switching off analogue television services (that is, analogue switch-off, or ASO in short) at the end of 2015.

As at September 2013, the overall coverage of the DTT network of the two free-to-air television broadcasters had reached at least 99% of the local population. According to a public survey conducted in June 2014, over 80% of the households are capable to receive DTT services. The Government will continue to closely monitor the implementation of the DTT services and the development and maturity of the market, including the increase in the take-up rate of the DTT services, and enhance the publicity on the benefits of DTT to encourage the viewing public to switch over to DTT. We are studying the need to adjust the time frame for ASO in view of the latest position, and will make appropriate arrangements accordingly.

(2) Under the planning of analogue television spectrum in Hong Kong, an 8 MHz frequency range is assigned as a broadcasting frequency channel for transmitting an analogue television programme service channel. The local hilly topography requires the use of a number of broadcasting frequency channels to achieve close to full across-the-territory coverage via different transmitting stations. At present, there are altogether four analogue television programme service channels.

Spectrum transmission capacity is determined by the nature of the service (for example, television broadcasting or telecommunications service) to which the spectrum is assigned and the technological development of the service. For instance, given the technical constraint of analogue television broadcasting, an 8 MHz broadcasting frequency channel can only carry a television programme service channel in analogue mode. However, in digital mode, it can carry more than one television programme service channel. As regards the spectrum allocated to television broadcasting (that is, the 470-806 MHz band), the Communications Authority (CA) has already assigned all of the frequency range to analogue and digital television and broadcast-type mobile television services, and there is no idle channel for territory-wide coverage.

At present, we do not have a specific plan on the use and allocation of the spectrum to be freed up after ASO. Technological development and diversification in telecommunications and broadcasting services has brought about changes in spectrum requirements of the services. Upon ASO, the CA will allocate the freed up spectrum after taking into account such factors as the prevailing spectrum planning advice of the International Telecommunications Union, co-ordination arrangements with the Mainland on the use of spectrum freed up after ASO of the Guangdong Province and Hong Kong, and the prevailing market demand for telecommunications and broadcasting services.

(3) and (4)

To ensure the efficient allocation and use of radio spectrum, the CA has kept under regular review the utilization of the assigned spectrum by the television broadcasters. If the spectrum is found to

have been left idle without a sufficient and sound explanation, the CA will consider invoking the spectrum management and allocation powers conferred to it under sections 32G and 32H of the Telecommunications Ordinance (Cap. 106) and take appropriate follow-up actions, including but not limited to withdrawing under-utilized spectrum.

Most of the spectrum for television broadcasting has already been allocated to the two free-to-air television broadcasters, that is, Asia Television Limited (ATV) and Television Broadcasts Limited (TVB). The former Telecommunications Authority assigned in 2007 one single frequency network (SFN) multiplex each to ATV and TVB for the provision of their own DTT services, and one MFN multiplex to be shared equally between ATV and TVB for the digital simulcast of their four analogue free-to-air television programme service channels. After considering in detail the joint application of ATV and TVB and acting under the objective of ensuring the efficient use of radio spectrum, the CA announced in November 2013 its decision, as a temporary measure up to the expiry of the existing domestic free TV licences of ATV and TVB, to vary the capacity sharing arrangement of the MFN multiplex by withdrawing 1.5 Mbps transmission capacity in the MFN from ATV during the period from 26 November 2013 to 30 November 2015, and re-assign conditionally such capacity to TVB during the same period.

Currently, through the assigned broadcasting frequency channels and transmission capacity, ATV provides two analogue television programme service channels and six DTT programme service channels (one in high-definition format and five in standard-definition format), while TVB provides two analogue television programme service channels and five DTT programme service channels (all five in high-definition format). The remaining spectrum for television broadcasting, that is, the two SFN multiplexes, have been allocated to the Radio Television Hong Kong and the Hong Kong Television Network Limited for the provision of DTT services and broadcast-type mobile television services respectively. The two free-to-air television broadcasters have fully utilized the transmission capacity of the spectrum allocated to them.

Government's Requests for Internet Service Providers to Disclose or Remove Users' Information

17. **MR JAMES TO** (in Chinese): *President, according to the Transparency Report published biannually by Google, an Internet search-engine service provider, the number of requests made by the Government to the company for disclosure of its users' information has increased from 50 in the first half of 2010 to 359 in the first half of 2014, representing an over six-fold increase. It is learned that there are no standardized procedural guidelines for government departments to make requests for information of Internet users, nor are there provisions requiring government departments to obtain a court order before making requests to the service providers concerned for disclosure or removal of users' information. In this connection, will the Government inform this Council:*

(1) of the details of the requests made since February 2014 by each government department to various Internet service providers (including Google, Yahoo)/Internet platforms/websites (collectively referred to as "service providers") for disclosure of their users' information, including (i) names of service providers, (ii) whether the service providers are local or foreign companies, (iii) types of requests made and the number in respect of each type, (iv) reasons for making the requests, (v) whether the requests were made under court orders, (vi) details of the information requested, (vii) whether the service providers had acceded to the requests and (viii) reasons given by the service providers for not acceding to the requests;

(2) of the details of the requests made since February 2014 by each government department to service providers for removal of their users' information, including (i) names of service providers, (ii) whether the service providers are local or foreign companies, (iii) types of requests made and the number in respect of each type, (iv) reasons for making the requests, (v) whether the requests were made under court orders, (vi) details of the information requested for removal, (vii) whether the service providers had acceded to the requests and (viii) reasons given by the service providers for not acceding to the requests;

(3) *whether the authorities will consider publishing reports periodically (such as biannually) in respect of the information mentioned in parts (1) and (2) so as to enhance transparency;*

(4) *of the discrepancies in the procedural guidelines or contents of the forms used by various government departments for making requests to service providers for disclosure or removal of information of their users; whether the authorities have consulted the Office of the Privacy Commissioner for Personal Data (PCPD) on such guidelines and forms; if they have, of the details; if not, whether they will consider consulting PCPD; whether they will reconsider standardizing such guidelines and forms; if they will, whether a timetable has been set; if not, of the reasons for that; and*

(5) *whether the authorities will consider reviewing the existing legislation with a view to requiring that a government department must obtain a court order before it may make a request to a service provider for disclosure or removal of its users' information, so as to prevent abuse of personal information and to safeguard the privacy of the members of the public?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, regarding the five-part question, the Administration's reply is as follows:

(1) Details of the requests made by government departments to service providers for disclosure of their users' information since February 2014 are listed in Table 1.

(2) Details of the requests made by government departments to service providers for removal of their users' information since February 2014 are listed in Table 2.

(3) and (4)

In carrying out their duties, the officers of individual government departments and law-enforcement agencies may request for information or co-operation from the relevant persons or organizations (including Internet service providers) in accordance with duty-related laws and established procedures or guidelines, including the Personal Data (Privacy) Ordinance and the relevant

code of practice/guidelines, as and when necessary. Since the existing mechanism functions effectively, we do not think it is necessary to establish a separate set of procedures for Internet service providers.

(5) The requests made by the concerned government departments/law-enforcement agencies to the relevant persons or organizations are mainly related to crime prevention and detection as well as law enforcement. They will ensure that these requests are made only when necessary for performing duties. Since the existing mechanism functions effectively, we do not think it is necessary to review it.

Table 1

Details of the requests made by government departments to service providers for disclosure of their users' information since February 2014

Government department	*(i) and (ii) Service providers/ Local or foreign[(1)]*	*(iii) Types of requests made and the number in respect of each type*	*(iv) Reasons for making the requests*	*(v) Whether the requests were made under court orders*	*(vi) Details of the information requested*	*(vii) Whether the service providers had acceded to the requests*	*(viii) Reasons given by the service providers for not acceding to the requests*
Companies Registry	One foreign service provider	Request for contact information of the person-in-charge of the website (once)	Suspected infringement of Companies Registry's copyright	No	Contact information of the person-in-charge of the website	No	The request has been forwarded to its client.
Customs and Excise Department	Local and foreign service providers	Request for users' information (357 times in total)	Crime prevention and detection	No	Users' information	Yes	Not applicable
Hong Kong Police Force	Local and foreign service providers	Request for users' information (2 621 times in total)	Crime prevention and detection — primarily involving technology crimes or crimes related	Partially	Users' information	Partially	In some cases, user accounts or records that do not exist are involved; or the registered

Government department	*(i) and (ii) Service providers/ Local or foreign*[(1)]	*(iii) Types of requests made and the number in respect of each type*	*(iv) Reasons for making the requests*	*(v) Whether the requests were made under court orders*	*(vi) Details of the information requested*	*(vii) Whether the service providers had acceded to the requests*	*(viii) Reasons given by the service providers for not acceding to the requests*
			to the use of the Internet. The Police handled a total of 3 884 cases of technology crime between February and August in 2014				user or Internet Protocol address is not in Hong Kong. Under such situations, the service provider cannot provide the information.
Inland Revenue Department[(2)]	Cannot be provided	Nine times in total	To enforce the Business Registration Ordinance (Cap. 310) and the Inland Revenue Ordinance (Cap. 112) by requiring persons carrying on business through the Internet to register their businesses and pay profits tax	Cannot be provided	Cannot be provided	Yes	Not applicable
Office of the Communicat-ions Authority	17 local and one foreign service providers	Request for registrants' information (37 times in total)	Investigation under the Unsolicited Electronic Messages Ordinance (Cap. 593)	No	Registrants' name, address, telephone number, date and current status of registration, and so on.	Yes	Not applicable

Notes:

(1) Since the question involves the commercial information of a large number of service providers, it is rather impossible for the Government to obtain consent from all relevant organizations to disclose the required information. Hence, the names of individual service providers have not been made public.

(2) Except for the information provided herein, other information cannot be provided due to the secrecy provisions under the Business Registration Ordinance and the Inland Revenue Ordinance.

Table 2

Details of the requests made by government departments to service providers for removal of their users' information since February 2014

Government department	*(i) and (ii) Service providers/ Local or foreign*[(1)]	*(iii) Types of requests made and the number in respect of each type*	*(iv) Reasons for making the requests*	*(v) Whether the requests were made under court orders*	*(vi) Details of the information requested for removal*	*(vii) Whether the service providers had acceded to the requests*	*(viii) Reasons given by the service providers for not acceding to the requests*
Customs and Excise Department	Local service providers	Request for removal of users' information (79 items in total)	Combat of copyright infringement offence	No	Auction accounts or hyperlinks	Yes	Not applicable
Department of Health — Chinese Medicine Division	6 local service providers	Request for taking appropriate action against the hyperlinks which contain information on suspected auction or sale of unregistered proprietary Chinese medicines/ Chinese herbal medicines (109 hyperlinks in total)	Suspected auction or sale of unregistered proprietary Chinese medicines/ Chinese herbal medicines, thereby contravening the Chinese Medicine Ordinance (Cap. 549)	No	Auction or sale information	Yes	Not applicable
Department of Health — Drug Office	7 local service providers	Request for taking appropriate action against the hyperlinks which contain information on suspected	Suspected auction or sale of controlled or unregistered medicines	No	Auction or sale information	Yes	Not applicable

Government department	*(i) and (ii) Service providers/ Local or foreign*[1]	*(iii) Types of requests made and the number in respect of each type*	*(iv) Reasons for making the requests*	*(v) Whether the requests were made under court orders*	*(vi) Details of the information requested for removal*	*(vii) Whether the service providers had acceded to the requests*	*(viii) Reasons given by the service providers for not acceding to the requests*
		auction or sale of controlled or unregistered medicines (1 293 hyperlinks in total)					
Hong Kong Police Force	Local and foreign service providers	Request for removal of users' information (27 items in total)	Crime prevention	No	Mainly involving obscene articles and phishing websites[2]	Partially	Most of the organizations concerned removed the relevant information as requested by the Police.

Notes:

(1) Since the question involves the commercial information of a large number of service providers, it is rather impossible for the Government to obtain consent from all relevant organizations to disclose the required information. Hence, the names of individual service providers have not been made public.

(2) Phishing websites are fake websites for stealing others' login name and password.

Kai Tak Cruise Terminal

18. **MR PAUL TSE** (in Chinese): *President, before the berthing for the first time of two cruise vessels at the Kai Tak Cruise Terminal (KTCT) on the same day, that is, the 29th of last month, the media had once again reported on the inadequacy of the ancillary transport facilities in KTCT. The media were afraid that the situation of passengers overcrowding the taxi stands inside KTCT might recur. Taxi associations, dissatisfied with the arrangement adopted by KTCT operator and for fear that taxis might "enter and leave KTCT without passengers on board" due to insufficient passengers, have threatened to call on its members to take boycott actions by refusing to enter KTCT. It has also been reported that both tourists and members of the public are dissatisfied with the signage inside KTCT, the routes to eateries and shops and the attractiveness of the shops, and so on. Some tourists have even described KTCT as "very boring," pointing out that*

its supporting facilities are much inferior to those in the cruise terminals in places such as Japan, Korea and Australia, and so on. In this connection, will the Government inform this Council:

(1) whether it has reviewed the situation in which the taxis that enter KTCT to carry passengers would "enter and leave KTCT without passengers on board" as claimed by the taxi associations, and the reasons why taxi drivers refuse to enter KTCT to carry passengers; given that the second berth of KTCT was commissioned at the end of last month and the number of tourists entering the territory through KTCT will increase instead of decreasing, of the means to be adopted to prevent the recurrence of the scenario in which public transport operators refuse to enter KTCT to carry passengers in future;

(2) given the comments that, at present, the vehicles entering and leaving KTCT must route through Kowloon Bay, and the route is rather indirect, time-consuming and inefficient, whether the Government will consider adopting the proposals recommended by a think tank of linking Kwun Tong and KTCT by constructing a floating bridge or a movable air-bridge, using kaito ferry service (that is, water taxis), or adding a cruise terminal interchange under the current Kwun Tong to Sai Wan Ho ferry service, or even implement the proposal put forth by the Kwun Tong District Council to the Government on many occasions for building a transportation link to KTCT to improve KTCT's transport arrangements;

(3) given that some reporters, tourists and members of the public have pointed out the problems of the shops inside KTCT being not attractive, unclear signage, small number of eateries, tourists patronizing retail shops being inconvenienced by the way lifts are operated, tourists having no idea about the location of shuttle bus stops, and few visitors visiting KTCT on weekdays other than weekends at which relatively more local tour groups and members of the public visit KTCT, and so on, of the way by which the Government will improve the situation; and

(4) given that in the past, the Ocean Terminal in Tsim Sha Tsui relied on discos, bars and restaurants to boost the visitor flow of its nighttime

business, whether the Government has assessed the visitor flow that can be brought to KTCT by establishing a street of bars there; as I have learnt that a bar business group has submitted an application to KTCT operator for running an open street of bars on the podium of KTCT, whether it knows the latest progress of the vetting and approval of such application; whether the authorities can further study if the visitor flow to be brought by the street of bars can motivate public transport modes such as taxis and light buses to carry passengers to and from KTCT?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, my reply to the four parts of the question is as follows:

(1) To prepare for the new round of ship calls starting from September, the operator of the Kai Tak Cruise Terminal (the KTCT operator) met with representatives of taxi trade organizations in mid-August and end-September to brief them on the schedule and transportation arrangements for the ship calls. The Secretary for Commerce and Economic Development also met with representatives of taxi trade organizations on 26 September to listen to the views of the trade on the KTCT. The atmosphere of the meeting was candid and cordial. The taxi trade representatives indicated that they were willing to continue the liaison with the KTCT operator and would endeavour to support the operation of the terminal, particularly on 29 September when it would be the first time for the KTCT to handle two ships simultaneously.

The KTCT operator will continue with the practice of disseminating information (such as disembarkation time and passenger volume) to taxi call centres one day before ship calls. New measures are also adopted where in the morning of ship calls, special publicity message will be broadcast on radio, and staff will be deployed to various spots around the terminal (such as the LPG station) to encourage taxi drivers to pick up cruise passengers at the terminal.

On 29 September, two cruise ships, Sapphire Princess and Voyager of the Seas, berthed simultaneously at the KTCT. Though a total of around 5 600 cruise passengers disembarked that day, the overall transportation arrangements were smooth. Apart from shore

excursions and transfer services arranged by cruise companies for their passengers, the KTCT operator arranged free shuttle buses to ply between the terminal and nearby MTR stations, as well as feeder bus services to take cruise passengers to hotel clusters in Tsim Sha Tsui and on the Hong Kong Island. The KTCT operator also introduced a new feeder bus route to Hung Hom to offer more choices to passengers. Moreover, special measure was implemented in the morning of 29 September where each taxi driver who picked up passengers at the KTCT was given $20 tunnel coupons. With the support of the taxi trade, more taxis went to the KTCT that day as compared with the number for previous ship calls. Generally, the cruise passengers could board the transport modes of their choice and depart from the KTCT with a reasonable period.

The KTCT operator and related departments will continue to liaise closely with the taxi trade to explore further improvement to the arrangements in order to facilitate more taxi drivers to go to the KTCT to pick up passengers.

(2) The departments concerned have conducted a comprehensive transport impact assessment for the Kai Tak Development Area (KTD) and are implementing various road and infrastructure projects by phases to serve the various development projects at KTD. To support the development projects at the southern part of the former runway, the Civil Engineering and Development Department (CEDD) plans to replace the existing single two-lane carriageway with a dual two-lane carriageway, as stipulated under the Kai Tak Outline Zoning Plan, to link the KTCT with Cheung Yip Street in Kowloon Bay and the area around San Po Kong, so as to cope with the increasing traffic flow.

Furthermore, the CEDD has conducted preliminary feasibility study on the proposed Environmentally Friendly Linkage System (EFLS) for East Kowloon, the scope of the study includes the proposed Kwun Tong Transportation Link (KTTL), which would accommodate a monorail, a walkway and a cycle track, to connect the Kwun Tong Ferry Pier with the former runway tip in KTD. The CEDD plans to commence a detailed feasibility study for the EFLS at the beginning of 2015, subject to funding approval by the Finance

Committee. The scope of the study will cover an in-depth analysis of the feasibility and implementation schedule of the KTTL.

For ferry services, the KTCT operator is studying the option of installing a pontoon, to be moored temporarily to the terminal for providing special ferry services on days of ship calls or events. Yet, in ascertaining the feasibility of providing ferry services or constructing other facilities, various factors have to be taken into account, such as passenger safety, technical issues (including considerations relating to works and nearby water currents), supporting transport services, expected passenger demand as well as the business viability of the proposal. Relevant departments will continue to discuss the proposal with the KTCT operator, with focus on the feasibility of using pontoon as a temporary landing step.

(3) The KTCT operator has kept in close communication with the tenants of the commercial areas to understand and address their operational needs. As far as transport connectivity is concerned, relevant departments have co-ordinated with the public transport operators to step up service frequencies and extend operating hours having regard to visitors flow to and from the KTCT. An additional drop-off point for minibus on the ground floor at the southern end of the KTCT has been installed to facilitate the public visiting the shops and café.

A new batch of directional signages has been installed inside and outside the KTCT building as well as at the KTCT Park to provide the general public and cruise passengers with clear directions to the commercial areas. The tenants of the commercial areas have also developed their own marketing strategies, such as offering special concessions or holding functions, to attract patronage by the general public and cruise passengers.

The shops, the eateries, the KTCT Park and the newly commissioned Runway Park adjoining the KTCT have gradually gained popularity among the public, particularly for family outings. With the increasing number of ship calls at the KTCT, promotions by tenants of the commercial areas and increasing level of public transport, it is expected that the number of visitors to the KTCT on weekdays and holidays will grow gradually.

(4) Regarding the Hong Kong Bar & Club Association's proposal to develop a "bar street" at the KTCT, the proposed site would occupy the KTCT Park managed by the Leisure and Cultural Services Department. Currently, the KTCT Park and the Runway Park adjoining the KTCT are primarily public leisure and recreational grounds. Converting part of the park into a "bar street" would reduce the available recreational space, interfering the recreational activities or enjoyment of the view of the Victoria Harbour by the public. In this connection, any change in the use of the park is subject to the agreement of the local community, including the District Council concerned. Other considerations include whether the proposal could integrate with the KTCT and other local facilities, impact on the environment and public order, and the planning restrictions for developments within the KTCT. The Administration will continue to study the proposal.

Fare Concession Offered to Elderly and Eligible Persons with Disabilities Travelling on Green Minibuses

19. **MR WU CHI-WAI** (in Chinese): *President, the 2014 Policy Address proposes that the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities (the Scheme) be extended in phases to include green minibuses (GMBs) starting from the first quarter of next year. In this connection, will the Government inform this Council:*

(1) of the respective numbers of GMB routes currently serving on Hong Kong Island, in Kowloon and the New Territories, as well as across districts the operators of which have applied for joining the Scheme, together with a breakdown by the aforesaid categories of the respective numbers of those routes the applications of which have been approved, are pending approval and have been rejected;

(2) when it will announce the GMB routes that have been included in the Scheme and the details; of the expected number of GMB routes which will be able to commence the fare concessions in the first quarter of next year; and

(3) whether it will, when granting operating rights to GMBs in future, consider imposing conditions to require operators to join the Scheme and comply with the relevant technical, operational, accounting and auditing arrangements, with a view to eventually extending the Scheme to cover all the GMB routes?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to the question raised by Mr WU Chi-wai is as follows:

(1) and (2)

We have launched the Scheme on general MTR lines, franchised buses and ferries in phases. Elderly people aged 65 or above and eligible persons with disabilities are able to travel on most routes of the above public transport services at a concessionary fare of $2 per trip. We are now also working to extend the Scheme to GMBs in phases starting from the first quarter of 2015 subject to the funding approval of the Finance Committee of the Legislative Council.

Up to now, the Transport Department (TD) has issued a total of 155 GMB passenger service licences, with 28, 50 and 77 providing GMB services on Hong Kong Island, and in Kowloon and the New Territories respectively, and 20 of them provide cross-region services. While the majority of GMB operators have expressed interest in joining the Scheme, the remaining ones have not indicated their intention at this stage because they want to further understand the actual operational details of the Scheme. The TD will continue to liaise with and encourage them to join the Scheme.

There are at present a considerable number of GMB operators. Many of them are small in business scale with different modes of operation, financial positions and accounting arrangements. The TD is actively pursuing with GMB operators and the Octopus Cards Limited to help the operators resolve the technical, operational, accounting and auditing issues. Subject to the preparedness of the GMB operators and the Octopus Cards Limited on the above matters, the TD will devise the detailed implementation arrangements for the Scheme.

(3) Existing GMB operators may participate in the Scheme voluntarily. The TD will enter into a contract with each participating operator to stipulate the specific arrangements. Since June 2014, when inviting applications for operation of GMB route packages, the TD has incorporated conditions to require operators to implement the Scheme upon the introduction of service.

Irrigation of Plants in Venues Under LCSD

20. **MR CHAN HAK-KAN** (in Chinese): *President, regarding the irrigation of plants in venues under the Leisure and Cultural Services Department (LCSD), will the Government inform this Council:*

(1) of the quantity of water used for irrigation by LCSD each year since 2010-2011;

(2) whether it has reviewed the effectiveness of the existing irrigation methods and explored which of them is the most effective; if it has, of the details; if not, the reasons for that;

(3) whether LCSD found, in the past three years, cases of its staff members or contractors using excessive amount of water for irrigation; if it did, of the details; of the content of the irrigation guidelines provided by LCSD to them; and

(4) whether, when constructing parks, it has considered making reference to the practice of using water from natural sources for the irrigation of plants as adopted by the Mainland or overseas countries, so that such parks can be self-sufficient in water use?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

(1) Water is used at LCSD venues for purposes such as the irrigation of plants, washing, bathing and toilet flushing. The LCSD does not have information on the specific amount of water used for irrigation.

(2) The LCSD regularly reviews irrigation methods with the aim of reducing the loss of irrigation water. It inspects the irrigation systems with a view to preventing water leakage, uses spray nozzles for irrigation to prevent water loss from the soil surface, and mixes the soil with soil conditioners (such as peat moss) to store water.

(3) Guidelines on the irrigation of plants are set out in LCSD's horticultural manuals and horticultural maintenance contracts for staff and contractors' reference. The guidelines state, *inter alia*, that plants should not be watered on rainy days or when the soil is saturated. The LCSD re-circulates the guidelines to its front-line staff and horticultural maintenance contractors before each rainy season to help ensure compliance with water-saving measures, and management staff are required to conduct regular inspections of irrigation systems. Also, drought tolerant plants such as Hymenocallis littoralis (Spider Lily), Ixora chinensis (Red Ixora) and Schefflera heptaphylla (Ivy Tree) are planted to reduce water consumption.

(4) When designing new parks, the Government will, having regard to the needs of individual venues, provide suitable irrigation facilities (such as automatic irrigation systems and soil moisture measurement sensors) and consider installing rainwater harvesting recycling systems for irrigation purposes to promote the efficient use of water.

Interpretation Services Provided for Ethnic Minorities in Public Hospitals and Clinics

21. **MR CHAN HAN-PAN** (in Chinese): *President, quite a number of people from the ethnic minorities have relayed to me that when seeking treatments at public hospitals or clinics, they are often not given appropriate treatments as they encounter communication difficulties due to language barriers. In this connection, will the Government inform this Council if it knows:*

(1) whether the Hospital Authority (HA) has reviewed the interpretation services currently provided for people from the ethnic minorities;

(2) *the number of complaints received by HA in the past three years lodged by people from the ethnic minorities about not being given appropriate treatments due to language barriers, and whether HA has followed up and dealt with such complaints; if HA has, of the details; if not, the reasons for that; and*

(3) *whether HA will allocate additional resources to employ more people from the ethnic minorities to work in public hospitals or clinics, so that they may also perform interpretation work as needed; if HA will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, to cater for the needs of ethnic minorities, interpretation services are provided in public hospitals and clinics of the HA through a service contractor, part-time court interpreters, volunteers and consulate offices. The interpretation services provided by the service contractor, Hong Kong Translingual Services, covers 18 ethnic minority languages (namely Urdu, Hindi, Punjabi, Nepali, Bahasa Indonesia, Vietnamese, Thai, Korean, Bengali, Japanese, Tagalog, German, French, Sinhala, Spanish, Arabic, Malay and Portuguese).

The HA has formulated guidelines for its staff on the procedures of arranging interpretation services. HA staff will arrange on-site or telephone interpretation services according to the needs of each case or upon requests of patients. For scheduled service (such as medical appointment at general out-patient and specialist clinics), patients may request the hospital/clinic concerned to arrange interpretation services in advance. For non-scheduled service (such as hospital admission during emergency), hospital staff will arrange immediate provision of telephone interpretation service or on-site interpretation service as soon as possible or use response cue cards in ethnic minority languages to communicate with patients, in order to ensure that medical treatment could be provided in a timely manner.

Besides interpretation services, the HA also provides response cue cards, disease information sheets and patient consent forms in 18 ethnic minority languages to enhance communication between hospital staff and ethnic minority patients in order to facilitate their registration and provision of services. These documents contain information about common diseases (for example, headache,

chest pain and fever), treatment procedures (for example, blood transfusion and radiation safety issues) and details of HA's services (for example, fees and charges and the triage system of the Accident and Emergency Department).

My reply to the various parts of the question is as follows:

(1) The HA has regularly reviewed the interpretation services provided to ethnic minorities, and will expand the service coverage according to needs. The number of languages covered by the interpretation services has increased from four in 2006 to 18 now. To ensure the quality of interpretation services, the HA provides, through its service contractor, training in medical-related knowledge and communication skills for all interpreters, including training sessions conducted by university lecturers. Through such training, interpreters will master communication skills, and knowledge on hospital operation, medical terminology and infection control, so that they can provide services for ethnic minority patients in a prompt and accurate manner. So far, over 80 interpreters have received such training. In collaboration with representatives of the Centre for Translation of the Hong Kong Baptist University, the service contractor commissioned by the HA also conducts annual inspection in hospitals to monitor the service quality of interpreters.

(2) According to HA's complaint records and annual survey findings of patients using the services of Hong Kong TransLingual Services, users were generally very satisfied with the interpretation services provided in hospitals and clinics.

In the 2011-2012 and 2012-2013 financial years, the HA received 20 and 12 complaints involving interpretation services provided in its public hospitals and clinics, representing less than 0.6% and 0.3% of the total number of cases respectively. The complaints mainly concern interpreters who were unable to arrive on time, and the situation has been improved in this regard. In the 2013-2014 financial year, only three complaints were received, representing less than 0.05% out of a total of approximately 6 000 sessions of interpretation services provided in public hospitals and clinics under the HA. The complaints were mainly about the communication skills of interpreters and none of them was about the punctuality of

interpreters. The HA and the service contractor have proactively taken follow-up actions in this regard.

(3) To meet the growing demand for interpretation services, the HA's expenditure on interpretation services increased from about $1.4 million in 2011-2012 to about $3 million in 2013-2014. It is expected that the expenditure will continue to increase in 2014-2015.

The HA will continue to strengthen the promotion of interpretation services to ethnic minorities. Multilingual posters have been printed and posted in public hospitals, and TV panels are used for promoting and helping ethnic minorities understand how to use the interpretation services.

Apart from healthcare personnel, front-line staff such as staff at enquiry counters, nurses and clerks in hospital and clinics will also come in contact with ethnic minorities. The HA organizes various seminars on the cultural characteristics of ethnic minorities, anti-discrimination legislation and equal opportunities for its staff. Online training is also provided to strengthen their communication skills with ethnic minorities, enhance their knowledge on ethnic minority cultures and improve their skills in arranging interpretation services. The relevant information has also been incorporated in the induction course for new recruits. From April 2011 to March 2014, over 5 000 HA staff of various levels received relevant training in serving ethnic minorities.

Looking ahead, the HA will continue to pay close attention to users' views and comments on the interpretation services in order to uphold service quality.

Development of Islamic Bond Market in Hong Kong

22. **MR KENNETH LEUNG** (in Chinese): *President, the Government's successful offering of its inaugural US$1 billion five-year sukuk, that is, Islamic bonds, in early September this year has enabled Hong Kong to become a platform for sukuk issuances. In this connection, will the Government inform this Council:*

(1) *as the legal, taxation and regulatory framework of Hong Kong can support the issuance of sukuk, of the authorities' specific plans to encourage more public and private institutions to issue sukuk using Hong Kong's platform; if there is no such plan, the reasons for that;*

(2) *whether it has analysed the uniqueness and major competitive edges of Hong Kong as a platform for issuing sukuk as compared with other international competitors, particularly neighbouring countries such as Malaysia and Singapore; if so, of the outcome;*

(3) *of the collaboration plans between the authorities and Bank Negara Malaysia (BNM) (such as borrowing the latter's experience in regulating the Islamic capital market and training financial talents) to enable Hong Kong to more effectively grasp the opportunities of the rapidly growing Islamic financial market; the objectives and timetables of such plans;*

(4) *given that among the investors of the inaugural sukuk issued in Hong Kong, almost half of them are from Asia, more than one third from the Middle East and the remaining 17% from Europe and the United States, whether the authorities have any plan to attract more global investors, including those from the Middle East and other Islamic areas, to participate in the bond market of Hong Kong; if so, of the details; and*

(5) *whether the Government has any plan to set specific targets on the scale of sukuk issuance for the next three years; if so, of the target issue amount each year?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President,

(1) The Government and regulators strive to create an enabling environment for the development of an Islamic bond (sukuk) market. The Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Ordinance 2013, enacted by the Legislative Council on 10 July 2013, provides a comparable taxation framework for sukuk *vis-à-vis* conventional bonds.

Furthermore, the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) have been in close collaboration with relevant overseas regulators (such as BNM and Securities Commission Malaysia (SCM)), international organizations (such as the Islamic Financial Services Board and the International Centre for Education in Islamic Finance) and local industry bodies (such as the Treasury Markets Association). They organized a series of seminars and workshops on Islamic finance over the past few years, with a view to enhancing market players' understanding of the sukuk market.

In March 2014, the Loans (Amendment) Ordinance 2014 was enacted by Legislative Council to enable the issuance of sukuk under the Government Bond Programme. Subsequently in September, the Government successfully offered its inaugural sukuk, with an issuance size of US$1 billion and a tenor of five years, marking the world's first USD-denominated sukuk originated by an AAA-rated government. The sukuk saw a strong demand from global investors, attracting orders exceeding US$4.7 billion and recording an oversubscription of 4.7 times, allowing a final pricing to be fixed at 2.005%. A pricing at a spread of 23 basis points over the corresponding yield of US Treasuries represents the tightest spread ever achieved so far on a benchmark USD issuance from an Asian (ex-Japan) government, setting an important new benchmark for Hong Kong and the rest of Asia.

The success of this issuance signifies an important milestone in the development of the Islamic capital market in Hong Kong. It demonstrates that using Hong Kong's platform for sukuk issuance is a viable fund-raising option. Going forward, the Government and regulators will continue to work closely with market players to boost the awareness and knowledge of issuers and investors in Islamic finance. The HKMA will share its experience in sukuk issuance with enterprises which have funding needs, with a view to encouraging them to participate in the local market.

(2) As an international financial centre, Hong Kong has a sound legal system, a transparent regulatory regime, a simple tax system, a deep and liquid capital market, a large number of international financial intermediaries and well-developed financial infrastructure, providing

an efficient platform for financial intermediation for market participants from around the world. In particular, many international financial intermediaries have set up strong capital market teams in Hong Kong. With the new taxation framework for sukuk, Hong Kong is better placed to promote Islamic finance.

The rapid economic growth in the Mainland in recent years has also led to strong funding and investment needs. Hong Kong is well-positioned to provide a platform for financial intermediation between Islamic investors and the Mainland, transferring the savings and funds from Islamic investors to Asia (especially the Mainland) for investment, and *vice versa*. Given that there are strong funding needs for Mainland enterprises, Hong Kong can act as a springboard for them to "go out" and expand their Islamic investor base.

As a leading offshore RMB business centre, Hong Kong has an advantage in developing RMB-denominated sukuk products. In fact, the RMB sukuk launched in the international market over the past few years have been over-subscribed. In particular, the proportion of Hong Kong investors was in a range of 25% to 55%, reflecting a strong demand for RMB sukuk from Hong Kong investors.

(3) Regulators have been maintaining a close partnership with key Islamic financial markets, such as Malaysia and Dubai, and so on. For instance, the HKMA and BNM entered into a Memorandum of Understanding in 2008, enabling both sides to exchange experiences on different areas of Islamic finance, including market infrastructure, human capital training, regulation, and so on. Besides, the SFC and SCM signed a joint declaration in 2009 to provide a framework for mutual recognition of Islamic collective investment schemes offered to the public.

Last year, the HKMA and BNM set up a private sector-led Joint Forum on Islamic Finance (the "Joint Forum") to promote closer collaboration between the private sector in Hong Kong and Malaysia (including banks, funds management firms and exchanges) in the development and promotion of Islamic financial market, with a view to expanding the investor base. The relevant work is ongoing.

(4) The Government and regulators have reached out to international investors to promote the advantages and opportunities presented by Hong Kong as an international financial centre. The strengths of Hong Kong's bond market, including the sukuk market, and our listing platform, are one of the key features in our promotional work targeting international investors.

Apart from the above, the inaugural sukuk issuance by the Government is expected to attract more sukuk issuers and investors to participate in the market. The global roadshow in Riyadh, Dubai, Abu Dhabi, Doha, Kuala Lumpur, Hong Kong, Singapore, London and New York in September has provided an ideal opportunity for us to showcase Hong Kong's Islamic finance platform to the international market. Indeed, the inaugural sukuk issuance by the Government has attracted interest from international investors in the Middle East/other Islamic countries who rarely participated in Hong Kong's financial market in the past. We believe that this will have a positive impact on attracting more international investors to our market. Going forward, we will take every possible opportunity to promote Hong Kong's bond market, including the sukuk market, when meeting with institutional investors, issuers and asset managers.

(5) The global sukuk market has registered a rapid growth in recent years. Ten years ago, new sukuk issuance amounted to US$5 billion modestly. Last year, the annual sukuk issuance has already surpassed US$100 billion in 2013, more than 20 times higher than that in 2003.

The legal, taxation and regulatory frameworks in Hong Kong are already in place to support sukuk issuance. The pace of development of the sukuk market in Hong Kong will be market-driven, subject to various factors including the development of global sukuk market, investor demand, funding cost, the availability of different fund-raising channels, and so on.

BILLS

First Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: First Reading.

DISTRICT COOLING SERVICES BILL

CLERK (in Cantonese): District Cooling Services Bill.

Bill read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: Second Reading.

DISTRICT COOLING SERVICES BILL

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, I move the Second Reading of the District Cooling Services Bill (the Bill), which seeks to provide for matters related to the provision of district cooling services by the Government, including the imposition of charges for the use of such services and other related matters.

The aim of the Bill is to provide the Government with the necessary legal backing for the collection of charges from users for the use of the services provided by the District Cooling System (DCS) at the Kai Tak Development (KTD), and for authorizing the Electrical and Mechanical Services Department to make use of the charges received to offset the operation costs for the DCS.

The DCS is an energy-efficient air-conditioning system and also one of the major infrastructure facilities in support of the sustainable and environmentally friendly development at the KTD. To promote energy efficiency and

conservation, and with the support of the Legislative Council, the Government is constructing the DCS, which is the first of its kind, at the KTD with a planned total of about 1.73 million sq m of non-domestic air-conditioned gross floor area.

The DCS consumes 35% and 20% less electricity as compared with traditional air-cooled air-conditioning systems and individual water-cooled air-conditioning systems using cooling towers respectively. Due to better energy efficiency, the maximum annual saving in electricity consumption upon completion of the entire DCS project is estimated to be 85 million kilowatt-hours, with a corresponding reduction of nearly 60 000 tonnes of carbon dioxide emissions per annum.

Apart from energy saving, the DCS would bring about other benefits for individual users. Some examples are reduction in upfront capital cost for installing chiller plants at their buildings, no noise and vibration arising from the operation of heat rejection equipment and chillers of air-conditioning plants in buildings, reduced heat island effects in the KTD, air quality improvement and more flexible building designs for user buildings.

The proposed tariff set out in the Bill seeks to achieve full cost recovery of the DCS over its project life in 30 years. It is lower than the cost of the air-conditioning systems available in the market. Long-term energy savings would translate into a reduction in cooling costs.

We consulted the Legislative Council Panel on Environmental Affairs in July 2014. Members welcomed the implementation of the DCS at the KTD and did not raise any objection to the proposed charging mechanism and the legislative proposals. To prepare for the collection of charges from non-government users which are expected to subscribe to district cooling services in July 2015, the legislation will need to be passed by the Legislative Council before the end of this Legislative Session. We hope that Members will support this Bill. We will co-operate with the Legislative Council in the deliberation work in order to have the legislation passed and put into force as soon as possible.

With these remarks, I move the motion. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the District Cooling Services Bill be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

MOTION FOR THE ADJOURNMENT OF THE COUNCIL

MOTION FOR THE ADJOURNMENT OF THE COUNCIL UNDER RULE 16(2) OF THE RULES OF PROCEDURE

DEPUTY PRESIDENT (in Cantonese): Motion for adjournment: Motion for the adjournment of the Council under Rule 16(2) of the Rules of Procedure.

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, a point of order. I would like to call for a headcount.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): I have approved Mr Alan LEONG to move an adjournment motion under Rule 16(2) of the Rules of Procedure at today's meeting for the purpose of debating the following issue: the handling of people's assemblies by the SAR Government and the Hong Kong Police since 26 September this year.

DEPUTY PRESIDENT (in Cantonese): The mover of the motion and other Members each may speak for up to 15 minutes.

Will Members who wish to speak on the motion please press the "Request to speak" button.

I now call upon Mr Alan LEONG to speak and move the motion.

MR ALAN LEONG (in Cantonese): Deputy President, I move that this Council do now adjourn to debate the following issue, that is the topic already mentioned by you just now.

Deputy President, we do know that the occupation movement is still going on in the vicinity of Harcourt Road and Connaught Road. Many people say that the movement has caused very great inconvenience to large numbers of Hong Kong people, and some even claim that it will affect the economy of Hong Kong. However, have we ever thought about the question of cause and result? What we see today is the "result", but what is the cause?

Deputy President, please let me talk about things in the more remote past. When the Basic Law was promulgated on 4 April 1990, we Hong Kong people believed that we would have "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong". At the time of the reunification, we initially thought that if we had faith in the undertakings in the Basic Law, our status would change from the second-class subjects in a British colony to the citizens of a Special Administrative Region under the "Five-star Flag" of the People's Republic of China. We believed that we would be able to hold our heads high, become the "masters of ourselves", and exercise the genuine freedom of selecting the Chief Executive according to our own decisions. We all thought that this right would be respected.

Regrettably, the Standing Committee of the National People's Congress (NPCSC) gave an interpretation of the Basic Law in 2004, announcing that there would be no universal suffrage in 2007 and 2008, and also setting out the so-called "five-step mechanism". At that time, we thought that, well, if things could not work out in 2007 and 2008, then 2012 should be the year. But then, in 2007, they again said no. They asked us to wait until 2017, saying that this was the earliest possible time. Well, 2017 is now fast approaching, but the first thing we have seen is a "white paper" which shows that it is actually more accurate to say "one country, one system", "a low degree of autonomy" and "Beijing people ruling Hong Kong".

As for the report of the SAR Government submitted by LEUNG Chun-ying to the Central Authorities, it is even more conservative than the proposals made by the most conservative political parties in the Legislative Council. Actually, throughout the time from QIAO Xiaoyang to LI Fei, they have just been saying that the nominating committee (NC) in 2017 shall be formed with reference to the current provisions regarding the Election Committee. But in his report, LEUNG Chun-ying replaces "with reference to" by "in accordance with" without any reasons. Whether this is a secret move is up to everybody's guess. He says that a valid nomination must be supported by more than 50% of the votes of the NC. However, no support for this advocacy can be found in the report on the five-month consultation conducted by the SAR Government. He claims that his report is compiled based on the five-month consultation, but this 50% thing cannot be found in the consultation report. It is definitely not the majority view.

Deputy President, this is precisely the "cause". Faced with the "result" today, we must not ignore the cause and then keep asking students to withdraw and not to upset the life of Hong Kong people. They have fired 87 tear bombs and turned a blind eye to those triad elements who kicked and punched and even indecently assaulted the peaceful occupiers in Mong Kok. But they have not even said a single word of apology. How deplorable!

Deputy President, why has the occupation of roads occurred recently? You may still remember that on 26 September, some students entered Civic Square and intended to re-take it. Then, on 28 September, large numbers of people turned up to show their support of the students. I can still remember that outside Exit A of the Admiralty MTR Station, it was very crowded, so crowded that people simply could not find any more room to stand and must return to the station concourse. But the authorities still refused to let them go to Tamar Park or Tim Mei Avenue, thus arousing their great anger. All that happened subsequently was the voluntary act of people. But Beijing says that this is a colour revolution orchestrated by foreign powers, and this has caused the occupation of roads. This is simply a brazen lie. Just look at what happened in those few days, and everybody will know the "cause" of the "result" we see today.

However, Deputy President, I must say that whatever the cause may be, Hong Kong people should still possess the freedom of assembly and peaceful demonstration all the same. How have the Police handled the occupation movement then? As I have been pointing out, people are practically driven by the Government to put up resistance. We observe that what the Police have

done in the course of law enforcement — this is most pertinent to the debate now — can be shown by what happened to Ken TSANG, a fellow party member of mine, this morning. I mean the Police have resorted to extra-judicial punishment under the pretext of law enforcement. According to Ken TSANG, his hands were already tied up behind his back by a plastic strip, but six or seven police officers still carried him to a dark corner and showered punches and kicks on him. He has already undergone injury assessment in hospital, and photographs of his injury assessment can be found on the Internet. Hong Kong will never accept such extra-judicial punishment in the course of law enforcement.

Earlier today, I asked a supplementary question on the urgent questions. I told Secretary LAI Tung-kwok that if he had seen the news footage on television, he would also think that even if Ken TSANG's side of the story was brushed aside, there was still a *prima facie* case of inflicting bodily harm and causing grievous injury with intent, to say the very least. I asked him whether he should first suspend the several police officers involved, pending further criminal investigation. However, the Secretary replied that this should not be done because the mechanism of the Independent Police Complaints Council (IPCC) should first be activated, meaning that punitive and disciplinary actions would be taken only when a criminal offence was established after the Complaints Against Police Office had completed its investigation and the IPCC had examined the case. But will this be a bit too late?

Deputy President, apart from this "hot" issue, that is, the contemptible practices of the Police, the 87 tear bombs have also caused huge reverberation. It is very puzzling indeed. Throughout the urgent question time today, Members have over and over again asked the authorities to disclose the process of decision-making. One cannot possibly say that it is all the decision of the field commander after, say, the accidental firing of mortar bombs, right? What is most infuriating is that after hiding in his tortoise shell for more than 10 days, LEUNG Chun-ying suddenly appeared before the microphones of media crews during the Pan-Pearl River Delta Regional Co-operation and Development Forum, saying that it is common sense that the field commander was responsible for determining when to use any tear bombs. I cannot help suspecting that LEUNG Chun-ying lives on Mars and I in Hong Kong because he and I are so different in common sense. My common sense tells me that before discharging their duties, the Police will at least ask their superior for instruction on the maximum level of force permitted, and whether they can use tear bombs, rubber bullets, real bullets and the like. The reason is that this involves political

responsibility. Strangely, however, LEUNG Chun-ying himself exposed his own slyness later. When interviewed in TVB's "On the Record" and asked if he played any part in the subsequent decision of stopping the use of tear bombs ― perhaps he wanted to claim the credit ― he said that he of course played a part when he had to tackle the overall situation. What does that mean? Does this mean that the use of tear bombs falls outside the overall situation? Or, does this mean that the overall situation only covers the decision on stopping the use of tear bombs? What is even stranger is that Carrie LAM, the second highest government official of the Special Administrative Region … I suppose she actually wanted to draw a distinct line between her stance and LEUNG Chun-ying's. Carrie LAM said that the Chief Executive was of course aware and informed of such decisions, but she was not in the know.

And, we also remember that the warning flag displayed by the Police was double-sided, with one side showing "Or We Fire" and the other "Tear Bombs". Deputy President, there is one strange thing here. If you have also seen the television footage, you will know that the policeman holding the banner was actually turning round and round in a full circle of 360 degrees, rather than merely showing the flag to the people in front of him. It is therefore totally absurd to explain that the double-sided flag was only meant for the people in front of the flag-holder, or for environmental protection. All Members know how much it costs to make such a banner. $200? Even a flag of a better quality will cost only $500 at most. The saving of merely $500 must be an utterly absurd excuse for making such a double-sided flag that practically threatens to open fire.

Deputy President, regarding the handling of demonstrators in the peaceful occupation movement this time around, the Police have overlooked not only the causality involved and the backdrop that the people are practically driven by the Government to put up resistance, but have also startled and outraged many Hong Kong people in the course of actual operations.

Deputy President, the IPCC has likewise disappointed the people greatly. Under the existing mechanism, the IPCC is the final arbiter of any arguments and disputes between members of the public and the Police. What does this arbiter rely on when performing its function? Public trust. That very Mr KWOK, the incumbent Chairman of the IPCC, has been virtually "invisible" so far. I must advise him that if he continues to behave like this, any hope of continuing to command public trust in the future is pure wishful thinking, and the system of the IPCC will disintegrate as a result.

Deputy President, in the last two minutes, I just wish to point out that it is completely unrealistic to focus only on asking students and the people in "Umbrella Square" to disperse. Once again, I solemnly call upon the SAR Government to reopen the door to dialogue with students immediately. Dialogue is the only means of resolving the present dilemma. The Chief Secretary for Administration has called off dialogue with students on the ground that they cling to their position, which includes the stepping down of LEUNG Chun-ying and the withdrawal of the NPCSC decision on 31 August. Deputy President, let me ask a question here. Obviously, the need for any negotiation or dialogue between both sides stems precisely from their divergent positions. If their positions are the same, will there still be any need for negotiation? There will not be any such need at all. If the Chief Secretary for Administration is really so capable, she should seek to persuade students and the people on their side to change their position in the course of dialogue, rather than refusing to negotiate with them because of their position.

One last point is that these days, we frequently hear people such as CHEN Zuoer and Vice-Premier WANG Yang say that Hong Kong people are definitely staging a colour revolution. I really want to ask these state leaders to read the letter sent by the Hong Kong Federation of Students to State President XI Jinping, and see how much the students respect his authority. The letter only says, "President, your China dream is being ruined by a man called LEUNG Chun-ying. We hope you can do something about him." I therefore very much hope that such ruinous and untrue theories can vanish as quickly as possible. Hong Kong is not staging any colour revolution.

Mr Alan LEONG moved the following motion: (Translation)

> "That this Council do now adjourn for the purpose of debating the following issue: the handling of people's assemblies by the SAR Government and the Hong Kong Police since 26 September this year."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, today is the first Council meeting after the resumption of the Legislative Council. Beginning this morning, a number of Members have already expressed their concern about various aspects of the past period of time since the commencement of Occupy Central during the oral question session, and I have also responded in relation to the law-enforcement work of the Police. And now, Mr Alan LEONG has moved this adjournment motion to discuss the handling of people's assemblies by the SAR Government and the Hong Kong Police since the end of September.

Like many Members who have spoken today, the SAR Government is also very much concerned about the development and impacts of Occupy Central. Indeed, members of the public have expressed their views on various subject matters, including political reform, and they have also organized peaceful assemblies or processions. These are the rights of the people, which we do understand and respect. During the recent past, various kinds of messages were being circulated on the Internet or other social media, and some depicted the Police and the protesters as two confronting or even hostile camps. Besides, there were also many allegations seeking to smear the Police. All these made me feel so distressed. Over the past years, the principle upheld by the police officers in discharging law-enforcement duties is that they would facilitate the staging of lawful and peaceful assemblies and processions as far as practicable, and would implement measures to minimize the impact of such activities on the public and road users, so as to ensure public safety and public order.

This is the responsibility of the Police Force to safeguard Hong Kong's law and order and to serve the public. In discharging their duties in accordance with the law, such as combating crime, safeguarding the safety of people's lives and properties, maintaining social order and so on, police officers will treat all members of the public the same way regardless of their background, stance or political orientation. If any persons occupy any roads illegally, charge against government buildings, disrupt public order, obstruct a police officer in the execution of his duty, and so on, the Police must handle the matter in accordance with the law, and this is their responsibility to do so. As such, the Police Force has all along urged the persons participating in public meetings, demonstration or processions to abide by the laws of Hong Kong and respect the rights of others in expressing their demands, so that the relevant activities can be conducted peacefully and orderly. Besides, they should also notify the Police beforehand in accordance with the requirements prescribed in law, so as to enable the Police

to take necessary measures to facilitate the smooth running of the lawful and peaceful assemblies and processions.

The protesting and charging incidents on 26 to 29 September

According to my understand, many Members of the Council and members of the public are very much concerned about the actions taken by the Police on 28 September afternoon and in the small hours of 29 September in Admiralty and Central District. On September 26, a public meeting was held on the pavement outside the Central Government Offices (CGO). Even though the organizer had notified the Police about the meeting beforehand, and the Police had also issued the "letter of no objection" subsequently, on that night, participants of the meeting were, regrettably, directed to storm the gate of CGO and climb over the security fencing in order to force their way into the East Wing Forecourt and occupy it. Charging the police cordon line, the participants pushed over the mills barriers and scuffled with security guards and police officers, posing danger to themselves and other people on the scene, and causing injuries to many people.

As some of the protesters have conducted acts of violence and incited others to storm government building, disrupting public order and breaching the peace, the meeting concerned has already breached section 18(2) of the Public Order Ordinance and is therefore an unlawful assembly.

In the early hours of September 28, Occupy Central was launched as announced by its founders. Subsequently, a large number of radicals with different backgrounds joined the originally student-led class-boycott assembly. On the afternoon of September 28, some protesters broke their way to Harcourt Road, where traffic was running, and occupied it to cause wilfully a massive traffic blockage, severing the transport lifeline of Hong Kong Island. Against the Police's appeals and warnings, a swarm of radical protesters standing in front of the police cordon line, and on a number of occasions, deliberately charged the cordon line and seized the mills barriers in an organized manner. They assaulted police officers with umbrellas and water bottles. Deliberately surging forward in an organized manner, they attempted to break the police cordon line. Nobody had expected a peaceful meeting to turn violent, and such a development was nothing any one had wished to see. As a result of such behaviour, public safety and public order were at stake seriously. By means of loudspeakers and warning banners, the Police repeatedly advised participants of the unlawful assembly to

leave as soon as possible, and gave warnings that the Police would use force if they did not cease charging the police cordon line.

Given that the repeated advice and warnings were totally futile, the Police used pepper spray to stop protesters from further charging, so as to minimize the chance of injuries to people on the scene. However, the crowd kept growing and the police cordon line was incessantly charged by some organized acts. The scene was very chaotic as protesters, who were large in number, continued to gather and launched violent charging despite the Police's advice and warnings. On that day, quite a number of protesters were equipped with goggles, face masks, umbrellas, cling film and so on for eye and body protection, so as to minimize the effect of the pepper spray on them.

In view of the failure to achieve the effect of counteracting the incessant charging of the crowd by the use of pepper spray, in order to prevent the situation from getting further out of control which would lead to more serious casualties, the Police had no alternative but to use tear gas to put an immediate halt to the violent charging staged by the protesters, to create a safe distance from the protesters, and to stop any acts that might threaten public safety and public order.

There are strict police guidelines on the use of force, including the use of tear gas. In contemplating the use of force, the Police take tear gas and pepper spray as a viable means to stop people from charging and make them disperse by triggering temporary discomfort to them. When a large crowd of protesters are on the scene and the pepper spray has failed to counteract effectively the charging launched by the protesters, which may possibly lead to a break-off of the police cordon and a stampede involving a large number of falls, trampling accidents or serious injuries as a result of the charging launched by a great number and layers of protesters, the Police have to use tear gas to put an immediate halt to the charging and create a safe distance to avoid mass and serious casualties on the scene. Under normal circumstances, tear gas and pepper spray will not bring about permanent body harm. All field commanders responsible for the actions to be taken at the scene will determine the kind of force to be used basing on their professional judgment made in the light of the prevailing situation at scene, overall circumstances and operational needs. In view of the situation on the afternoon of September 28 and in the small hours of 29 September, it was appropriate for the Police to use tear gas. We need to understand that the Police have to make professional judgment and consideration in discharging their duties to enforce the law and safeguard public safety. As a matter of fact, during this charging incident, no serious injuries were caused to police officers or members

of the public. On the contrary, if the field commanders had not made such decision on that day, the number of people and police officers would have been far greater and the injuries inflicted would have been much more serious.

After every major operation, the Police will consolidate their experience to meet their future internal security requirements and operational commitments. In addition, the statutory Independent Police Complaints Council (IPCC) as well as the Police's Complaints Against Police Office will handle, in accordance with the relevant legislation and established procedures, all complaints lodged in relation to the law-enforcement actions taken by the Police. The Police will fully co-operate with the IPCC in their work

Protesting activities arising from Occupy Central

This is the 18th day of Occupy Central, and I believe we can all understand and feel the grave impact and inconvenience caused to people's daily life by the illegal Occupy Central and the unlawful assemblies in other districts. The unlawful assemblies have already impacted extensively, gravely and substantially on the traffic conditions, emergency rescue services, people's journeys to and from work and school, as well as various kinds of economic activities. As the major trunk roads in Admiralty, Central District, Mong Kok and Causeway Bay have been blocked, the various districts across Hong Kong Island and Kowloon are seriously affected. As a result, the kindergartens in Central and Western District and Wan Chai District have suspended classes for six days. Even though the Police have succeeded in removing some of the obstacles from certain road sections in Admiralty and Causeway Bay over the past two days, the overall traffic condition has yet to resume normal, as the congestion problem is still very serious. Hence, the negative effects of Occupy Central on people's daily life and economic activities are very obvious.

Furthermore, as Members may still recall, some of the protesters have even besieged the Chief Executive's Office and CGO, refusing to let the 3 000 civil servants to go to work in CGO. What is more, some have even adopted some very unreasonable and absurd measures to hinder the Police's efforts to transport potable water and food, obstruct ambulance's way to transport the sick police officers to hospitals, and hinder police officers changing shifts. Some of the persons occupying the roads illegally have also reinforced the obstacles by bamboo sticks, wooden boards, road signs, plastic ties and concrete. With such additions, the obstacles may cause injuries to people more easily and make it more difficult for ambulances to pass through the relevant road sections.

Moreover, on the evening of 14 October, hundreds of protesters broke their way to Lung Wo Road, where traffic was running, occupied it and scuffled with police officers. Such acts are in defiance of the safety of road users, and may cause traffic accidents and hence grave casualties. Those protesters even hurled objects from great height, threw traffic cones from the roof cover of Lung Wo Road Tunnel to the carriageway, and moved mills barriers, plastic panels and drain covers nearby to the tunnel as obstacles to cause serious blockage of the road. All such acts were way beyond the things people do in peaceful demonstrations and were hardly acceptable to the general public. Such irresponsible and unlawful acts have made it impossible for the Government to function effectively and normally in the delivery of various kinds of public and emergency rescue services. We severely condemn all such acts and activities.

Mob confrontations

Some have criticized the Police for harbouring members of triad societies in handling the protestor confrontations in Mong Kok and Admiralty and turning a blind eye to the physical attacks they inflicted on the Occupy Central participants. I must rebut such allegations solemnly. Let me stress again, such accusations are totally fabricated ones, seriously inappropriate and gravely unreasonable. They are very unfair to the police officers who have put in their best to discharge their duties.

As a large number of people with divergent views have been gathering in Mong Kok since the commencement of Occupy Central, quarrels and bodily confrontations occur easily. Added to this is the dissatisfaction of the nearby shops and residents with the long-term road blockade, as well as the deliberate provocation staged by some undesirable elements, which makes the situation of the district highly at stake. All those days, the front-line police officers were faced with huge challenges and charges staged by people holding different views, yet they could still remain professional and exercise restraint. During the mob confrontations on 3 and 4 October, police officers put in their best efforts to form a cordon, trying to separate the crowds and help those who wished to leave the scene to leave safely. During the process, many police officers were injured. So far the Police have arrested 52 persons involved in the relevant incidents, and some of them have triad background. Meanwhile, the Police are still investigating into the incidents.

As regards the confrontation took place at Admiralty Road on 13 October, police officers intervened immediately and reinforced the police manpower there

so as to separate the confronting crowds and ensure the safety of every person on the scene. Besides, the Police have also arrested three persons at scene, who were suspected of common assault and possession of offensive weapon. Subsequently, the Police made further arrest in connection with the incident.

Peaceful expression of views

I must stress that the Police have all along been handling all public meeting, processions and demonstrations in accordance with the law and in a fair, just and impartial manner. As regards the unlawful assemblies that took place in various districts across Hong Kong Island and Kowloon over the past days, both the SAR Government and the Police have been exercising great tolerance to allow the assembly participants to express their views. At present, as the assembly in Mong Kok is still a highly risky activity and has seriously affected the daily life of the public, members of the public should not join in. Various sectors of our community have already called on the protesters in different districts, it is their hope that the protesters will immediately leave the scene to ensure their own safety.

I believe members of our society all agree that this extensive road occupation should not, and cannot, last forever. No matter how important the protesters think the objective they strive for is, they cannot do what they wish at the expense of other people's interests. "Civil disobedience" should never be made a pretext for violating the law. Both the SAR Government and the Police have a responsibility to restore public safety and public order. I hereby urge once again that all the protesters occupying various roads unlawfully should expeditiously leave the scene peacefully, so that emergency and public vehicles can use the relevant roads again. They should also remove the obstacles from the roads to allow traffic flows to resume normal, so that people can resume their normal life and social order can be restored.

It is my belief that the people of Hong Kong all hope to see the participants in the assemblies replacing illegal contending actions with rational discussions as soon as possible, and expressing their views in a law-abiding, pragmatic, rational and peaceful manner, just like the people of Hong Kong have always been doing.

Police officers performing their duties faithfully

Here, I also hope that Members of the Council and members of the public can understand the roles of the Police in performing their duties in accordance

with the law in the present highly complicated situation, and the various challenges and difficulties facing them. As a law-enforcement agency, the Police Force has a statutory responsibility to maintain law and order, safeguard the safety of people and their properties. In places where large crowds of people are gathering, it is all the more necessary for the Police to make the right arrangements to ensure public safety and public order. This is also the reason why the law requires organizers of public meetings to notify the Police beforehand and to get a "letter of no objection" from the Police. For the past days, in the face of a number of large-scale assemblies, all the police officers on the frontline have remained very vigilant round the clock to deal with the assemblies and the crowds of protesters, and to perform daily police duties in all districts across the territory. Police officers were putting in their best efforts to serve the people of Hong Kong, despite the unreasonable criticisms, personal attacks and insults in foul language hurled at them. Besides, some of the protesters have even treated the police officers violently. Nevertheless, they still stood fast to their posts even though they were in dire need of rest or not feeling well, and performed their duties with perseverance in a fearless manner. They mediated between conflicting crowds when the situation was highly chaotic and dangerous and maintained law and order while exercising tolerance. The Police have been performing their duties in a professional and faithful manner, and they should be well supported by the general public. During the past period of time, many members of the public have, on their own initiative, expressed their support and best wishes to the Police Force. Both the Government and the Police Force are very grateful for that. I hope the general public will continue to support the law-enforcement work of the Police Force and leave no chance for undesirable elements to make use of the current incidents to hamper Hong Kong's rule of law and good public order.

The Hong Kong Police Force is a highly professional and outstanding disciplined force. Besides, Hong Kong is one of the safest cities in the world. Members of the public who have lived overseas would know that such a result can only be achieved through much hard work. The SAR Government fully supports the Police to enforce the law and handle the present and future public meetings and activities in a professional manner.

Thank you, Deputy President.

MR IP KIN-YUEN (in Cantonese): Deputy President, over the past few weeks, we see that Hong Kong has entered a totally new stage in historical development. In this new stage, the Government has committed four blunders. The first blunder appeared on 28 September, and I believe that Hong Kong people will always remember this date. During the week before this date, students protested along Tim Mei Avenue. At that time, the Police blocked the traffic at Tim Mei Avenue so that the protest or demonstration was restricted to that area. Basically, it was in good order. However, on 28 September, the Police cordoned off Tim Mei Avenue. As a result, the public could not enter but could only assembled along Harcourt Road. Subsequently, there was a situation when people occupied the roads in the outer area. Members of the public occupied the roads peacefully. They behaved reasonably and were self-restrained, demonstrating very high civil quality. There actually had some small-scale clashes at that time — I looked down from the Legislative Council Complex and I saw clearly that these clashes only happened in a small area. However, the Police Force used tear gas and police batons to deal with these defenceless protesters. The Government used incompatible level of force with a view to suppressing dissidents with state apparatus.

During the protest against the World Trade Organization in 2005, the Police only used 34 tear gas canisters when being confronted by Korean peasants charging at the defence line. Nevertheless, facing some defenceless people who only used cling film and umbrellas to protect themselves in this protest, the Police used 87 tear gas canisters in one go and even used guns to scare the mass. It is already proven that tear gas can cause serious damages to human bodies, and may even cause death. The use of tear gas has been stopped in Korea and other countries for more than 10 years. Can the Government simply ignore people's lives merely for the sake of suppressing dissidents? Here, I want to ask Mr LEUNG Chun-ying: Why did you force the protesters to extend the area of occupation? Why did the level of force used by the Police keep on escalating within a short period of time? Do the precious lives of the public really carry any meaning in your heart? Do you really have to treat all those people who disagree with your governance as enemies?

The Secretary said earlier that the Police Force was of very high quality and professional. In dealing with the entire issue, they exercised the highest endurance. I believe that the quality of the Police Force is very high in many aspects. But the problem is that in the speech, the Secretary only stressed on the grievances of the Police during the process. Will he try to think from another angle that when the unarmed protesters were protesting peacefully, how were

they being treated? If on the other hand, the Secretary was a peaceful protester at that time but had to suffer the treatment of 87 tear gas canisters, will he speak the same today? Will he share the anger of the Hong Kong people? This is the first blunder committed by the Government which forced more and more people taking to the street.

The second blunder is that while these weapons were used against the protesters, the attitude of the Police towards anti-occupiers and the ruffians damaging the movement, and even some people who may be triad-related, is totally different. Over the past one or two weeks, not a few people have seen some handling ways of the Police. In respect of these handling ways, the Secretary has emphasized many times that the Police is absolutely unrelated with the Triad Society. I very much hope that the Secretary is right. However, based on the impression, people would deeply worried: Has there been covering up and indulgence in this process? If not, will that be incompetency in handling the case? Do government officials need to review on some handling ways in the process? It is because in the process, the Police should protect the personal safety of the protesters. They might have used a lot of methods to meet this end. Nonetheless, I believe that the Police have to do better if they want to clear the doubts of the public.

We all hope that the Police can exercise their professionalism and the greatest endurance. However, last night, what we have been worried about happened again in an even more violent way. When clearing the scene at Lung Wo Road last night, the Police treated the protesters in a brutal way. Particularly in the video clip being repeatedly broadcast on television, we saw that after seven police officers had subdued a protester and had the latter's hands tied up with plastic chordae, they carried him to a dark corner in Tamar Park. He was then repeatedly kicked and punched, being beaten up seriously. This is suspected to be imposing extrajudicial punishment in the disguise of law enforcement. No matter what the protester had done before, I believe it is still difficult to rationalize the action taken by these few police officers.

(THE PRESIDENT resumed the Chair)

In the Legislative Council meeting today, many Members say that they hope the Police can handle this case seriously. It is because if individual police officer has done something wrong, it is his personal problem. However, if the

Police cannot restrict, punish and correct him through the system, it will be the problem with the whole system. Therefore, with regard to the process by which the Police only pass the case to the Complaints Against Police Office (CAPO), and have these small number of police officers transferred away from their current positions, we find it totally unacceptable as it is obvious that the case is criminal in nature.

Mr Eric CHEUNG from the Faculty of Law of The University of Hong Kong has a very clear statement on this incident. He says that extrajudicial punishment is involved in this incident, and the *prima facie* evidence has already been established. Hence, what the police officers did this time is actually no different from assault committed by ordinary people, and they should be subject to criminal investigation. However, now that the case is being transferred to the CAPO, this will only undergo administrative investigation and administrative arrangement is being adopted to transfer the police officers concerned to other positions. We very much hope that the Police can really adopt a better way to handle the case seriously. We do not want to get the impression that investigation is conducted by peers. Neither do we want the Police to leave an impression that they will take this case lightly.

There are precedents that the Police may initiate criminal proceedings to deal with the acts of police officers who have obviously broken the law and committed serious criminal offences. In 2008, a rape case happened inside Mong Kok Police Station. Of course, the nature of the two cases cannot be compared. But the procedures concerned can be compared. At that time, the case was transferred directly to the Kowloon West Regional Crime Unit, without being investigated by the CAPO, especially because the functions of the CAPO is actually very limited. We can also see that in the past when there were serious criminal cases of abuse of power in the Police Force, criminal investigation could initiated immediately. Why can't this be done for this time?

We understand very well the difficulties of the Police Force in this incident. As the Police Force is a disciplinary force, police officers have to execute the instructions from their superiors and face the public at the same time. I believe that this was not what they wanted when they became police officers initially. However, they are now kept in the middle of the conflict. Who causes that? This is the fourth blunder committed by the Government in this incident. The current problem should not be resolved by the Police Force. Instead, it should be resolved by political means. Chief Secretary for

Administration Carrie LAM suddenly terminated the dialogue with the Hong Kong Federation of Students (HKFS), and this has disappointed a lot of people. We have no idea what is actually going on. Why couldn't they continue the dialogue last week so as to narrow the gap between the two parties? We also know that this incident and confrontation were actually derived from the different views on political reform. One of the main reasons that trigger the outbreak of this incident is the closing of the door by the Standing Committee of the National People's Congress. In terms of political reform, if there is no way to narrow the gap between two parties, or it is not possible to deepen mutual understanding through dialogues so as to really narrow the differences between two parties in their views on the issue, the protest will still go on.

The Secretary mentioned just now various problems and acts of the protesters. Here I would ask the Secretary to think why tens of thousands of people take to the street? Many of them take to the street to participate in protest for the first time. And they have to face the threat of Oleoresin Capsicum (OC) foam, police batons and even tear bombs. Do you think they find fun in it? All the causes to this incident are derived from the divergent views of different parties on the political system. Hence, it has to be resolved on political level.

In regard to students, some people criticize them as being incited and used, but this is groundless. It is true that certain strategies of the students are not necessarily perfect and certain means of theirs may also be controversial. On the whole, however, the performance of students in this movement, their independent thinking, knowing when to advance and retreat, as well as other brilliant performance, have deeply impressed others. Even many grown-ups find themselves inferior to the students. On the scene of the assembly, the students appeared to be calm and rational. They can always remain reasonable and restrained in the face of the rudeness and provocation of the police officers and anti-occupiers. They remind each other and take the initiative to clear the rubbish of the square and the roads. They apologize to the public for causing inconvenience to people's daily life. They are definitely not the ruffians as described by certain people. On the contrary, what they do has even earned compliments from the international society. Recently, many European consuls stationed in Hong Kong told me that they would like to invite protesters from their countries to come to Hong Kong for observation, so as to learn from the protesters in Hong Kong.

President, some people criticize the students' strike, saying that it would impede normal class order. However, in this students' strike, we see that both teachers and students have a very good opportunity to calm down and think about the issue under the situation when they boycott classes but not boycott learning. Some people can also have a very good civic class through direct observation and participation. As a Member for the education sector, I think that it is exactly the meaning of civic education for students to differentiate what is right and what is wrong, to shoulder social responsibility and to defend righteousness and conscience. I am very concerned about the safety of students. I very much hope that the Police can safeguard the personal safety of protesting students. Here I would like to appeal to the underage secondary school students that, after such a long period of time and after so many clashes in places like Mong Kok, they should avoid going to these places and should choose to go to some safe spots.

All in all, to genuinely resolve the existing problem, we cannot rely solely on the force used by the Police Force. The Government has to shoulder the responsibility. It cannot face the public merely through tape recording or video recording. We need to have a dialogue among the Government, students and the public, with a view to finding a way out for the issue of political reform. We also need the Government to learn the lesson and improve its practices.

Finally, I would like to mention that 27 reporters from the Television Broadcasts Limited (TVB) issue a statement today to express their dissatisfaction over the deletion of some video clips by TVB *(The buzzer sounded)* … I support the TVB reporters …

PRESIDENT (in Cantonese): Mr IP, your speaking time is up.

MR IP KIN-YUEN (in Cantonese): … for their ways to show their enthusiasm in journalism and in defending freedom of the press.

PRESIDENT (in Cantonese): Mr IP, please stop speaking.

PRESIDENT (in Cantonese): Before I ask the next Member to speak, I would remind Members that after consulting the opinions of Honourable Members, I have decided to suspend this meeting at around 8 pm tonight. Honourable Members have also received notice from the Secretariat that the Chief Executive's Question and Answer Session scheduled for tomorrow morning would be deferred. The meeting will be resumed at 9 am tomorrow.

DR PRISCILLA LEUNG (in Cantonese): President, lately, every time I catch from the television and outside the Central Government Offices some shots and scenes, I feel very sorry. What I personally experienced 25 years ago seems to have resurfaced one by one. The movement is on the verge of spiralling out of control, but the organizers of the occupation are still instigating the students, rendering them unable to retreat after their class boycott, as driven by the circumstances. The students have been pushed to the front, the Police are caught in the middle, and there are always people telling the protesters and students that the current situation is not serious, asking them to stay put and not to give up.

I am an ordinary person. I have taken part in front-line student movement, and also walked for five hours from Renmin University to Tiananmen. We very much understand the passion of the students and we know that they have their ideals for society. We appreciate their passion. However, when the mass movement led by the students comes to the stage that no one can emerge to be the leader, the impulse of the young people, as well as their inability to decide subsequent moves, very often becomes the Achilles' heel of a large-scale mass movement. This is especially so as the initiators of this mass movement have from the start pointed out that the movement has to take an illegal form. It can be said to be ridden with crises.

What makes me sadder today is that we find the Police Force, which has always been much appreciated by the public, being caught in the middle. Many people have soon forgotten those past instances which prove that the Hong Kong Police Force is an excellent team. More lately is the Kai Ching Estate incident. We have witnessed how the members of the Special Duties Unit carry out their duty, we feel very proud. A few years back, CHU Chun-kwok, a young police constable, sustained serious injury to his main artery in the neck when he was chasing a thief. He remains paralysed now. In addition, while handling a

protest, LAU Chi-kin accidentally lost his footing and died. His family members are still enduring the pain of having lost their dear one who passed away unfortunately while serving Hong Kong.

Today, I went to the scene of the occupation and saw a banner stating "Police Force on strike". I have also read an open letter written by the organizers of the occupation last month to the front-line police officers advocating them to be "non-co-operative". I do not know what Benny TAI has in his mind, but I believe no country, region or people from a region will accept the advocacy of their police officers to refrain from enforcing the law. In my opinion, those who do evils, fool around and commit crimes are the happiest when it is advocated that the police officers should refrain from enforcing the law. I think this must be stopped. I wish that those who are demonstrating and occupying Central should not advocate that the Police Force go on strike merely because they are fighting for their ideal.

Let us consider this: If the Police Force loses its morale, what will Hong Kong become? Members may still recall the views we held towards the Philippine police in the Philippine hostage incident which happened a few years ago. Recently, I read from the newspaper that as the people in India do not trust the Police, they resort to imposing extrajudicial punishment after arresting a thief or a rapist themselves. Do we want the Hong Kong Police Force to lose its morale, and our society to plunge into such a situation? Hong Kong is not a society of such. We have two great treasures: first, the rule of law, and second, freedom. Why are we, people of Hong Kong, so proud of our rule of law? This is because we have an excellent police force. Even if we walk on the street at 10.30 pm, we do not feel that our personal safety is at stake. However, if you are in the United States or a city elsewhere, even if the region is not comparatively backward, I would advise against going out after 10.30 pm.

The overall public order in Hong Kong is the fruit of the efforts of the Police Force over the years. I am also aware that our Police Force has exercised restraint in handling this large-scale protest. Although certain isolated incidents have become the subject of criticism and I also agree that an investigation is warranted, it does not mean that when isolated incidents happen, we have to keep encouraging the masses to insult the Police Force. I have actually heard the police officers say, "We don't mind dying, but please don't insult us". Not only is our Police Force under pressure, it is also being humiliated. I believe police

officers are not involved in politics. They are different from us Members. When we Members encounter these issues, it is possible that we do not consider them merely from a professional angle. However, they are on the spot and may have their judgment. I am not a professional in this regard, and therefore, I think we may perhaps give them a chance. Let us understand what judgment they came up with on that day through normal procedures.

Earlier, I watched the television show News Bar Talk, and "Sir H K TANG", a former police officer, was invited as its guest. I have learned a lot from the show. He explained how to use a police baton, the injury inflicted on the people by tear gas and pepper spray. He further said if it were years ago, those people would have been beaten up until they were covered with blood. I have no such knowledge, nor am I a professional in this regard. So, I was fascinated and watched the entire part of the show in which he explained all these to the people.

Thus, I think the Government has to do something. It should clearly explain to the people what tools it intends to use. I have full confidence in the Hong Kong Police Force, which I consider to be excellent, especially in its tolerance. However, we must accept that officers in the Police Force are of different ages and experience. I have once talked to them. On that occasion, they said that the young police officers in fact lacked the experience when they encountered such a large-scale protest. We have to take this into account.

I have been very worried. I also wish that we should not target at undermining the morale of the Police Force because this would eventually victimize the ordinary citizens. I think we should be more considerate of the Police Force at this time. I am absolutely confident that the Hong Kong Police Force can resolve this incident in a professional manner. Of course, it is my earnest wish that there can be a successful dialogue, and no action will be required ultimately. We can come up with a better solution which will resolve this incident more peacefully.

Some colleagues earlier talked about cause and effect. Cause and effect, or *vice versa*, is a matter of chicken and egg. Which comes first? Many people ask if tear gas comes first. As a citizen, I see that the Police have explained why different methods had been employed in handling the situation. I wish the Police Force could offer more explanation. Nonetheless, in terms of politics, this is not the only "cause".

Talking about cause, I remember that last January, during both public and private debates, I repeatedly told Benny TAI, "You should not resort to such a stupid move to coerce the Central Authorities. You will only mess things up using the overall interests of Hong Kong as stake". I wish that he would have believed in our words, as we not only have the experience but also are familiar with the situation. I wish he could have adopted a more effective approach to strive for universal suffrage. Hong Kong people want greater democracy, and everyone has to put in their effort. However, he should have employed an approach which can yield twice the effect with half of the efforts, instead of acting in this futile way which will do a disservice. But he did not believe. I remember he said during a forum that he did not believe. He claimed that the approach would definitely achieve the coercive effect. As such, he intensified his efforts and even encouraged secondary students and university students to pioneer Occupy Central. This is really heartwrenching.

The Occupy Central or illegal rally has reached a state of "having no leaders", and the protesters would not heed the advice to leave. Their fight for civil nomination is not in compliance with the Basic Law. It is a hollow, grandiose and exaggerated concept. I call on them to stop misleading the citizens and the masses. It is because when they want to turn back, they will not be able to do so. I have experienced the time when the masses had no leaders, which was horrific. Thus, on this issue of political reform, they have resorted to occupying Central to fight for an unrealistic goal, asking the masses to follow them. What is happening now? Very unfortunately, what we have foretold have all happened, and the Central Authorities will be more conservative. Compared with the situation 18 months ago when we explored how we could have more room to manoeuvre, even if we were to comply with the laws and the constitution, I myself have concluded that the attitude of the Central Authorities will be more conservative than before. Why? This is because they have no confidence in Hong Kong. They consider that the democracy claimed by the Hong Kong people will only mess up Hong Kong, resulting in a turmoil which is of no benefit to the nation.

We understand that for a big nation like China, the slightest mistake will easily plunge it into a turmoil. When China began its economic reform to transform from socialism to market economy, it was cautious and first tested it in several cities. Chinese officials visited Hong Kong many times to understand Hong Kong's land and securities systems. When they gradually felt that it was feasible, they progressively expedited their pace for development.

Actually, politics is the same. In the first place, Hong Kong had a good role. If we had headed for democracy step by step instead of ending up with this turmoil, we could definitely have served as a reference model. Nonetheless, as far as I understand, the Chinese Government considers that this road will lead to nowhere, just like putting a large-size outfit onto a petite Asian ― the Hong Kong people. China and Hong Kong differ in history, culture and even the background of their founding. The complexity of the international political situation faced by the whole of China and Hong Kong are different.

Therefore, instead of purely chanting slogans, why do we not communicate more with the young people in a positive way? I am more worried that the emotions of the people have come to the verge of getting out of control. Much antagonism has sprung up among family members and in the workplace. This is unprecedented.

I strongly wish to tell the public and those who are going on with Occupy Central that while we respect their pursuit of their ideal, they should not deprive the others of their chance to pursue their ideal. To them, they have to carve out their own path. Right. However, our rule of law and our freedom are the paths industriously carved out by our previous generations. We should not forfeit what we have in hand in pursuit of something hollow, grandiose and exaggerated, as we will eventually achieve nothing. According to international rating, Hong Kong is a high-quality city which has never seen such a situation of antagonism among its people. I am worried about the further development of the incident.

On political reform, I am aware that some people in Hong Kong are dissatisfied with the nation very much, but there are also many who have deep affection for the nation. This is a fact. People have diverse views on the pace for political reform. This has definitely to do with their different affection for and understanding of the nation. I think the Hong Kong society now needs more debates so that both sides can have more opportunities to calmly understand each other's views, instead of behaving like what they are now. As protesters are occupying roads, many become agitated because their living and rights are being undermined. Given the circumstances, the protesters will not achieve what they want. Instead, many will be suspicious of the direction of democracy they are championing, or will even harbour dislike. I wish they can face up to this reality.

Thus, regardless of which camp we belong to, I hope that we can work together. All the more, I wish the Occupy Central organizers would do their best to dissuade citizens and students from standing in the forefront of the political risk. I know they are studying the issue. Let us together appeal to these people to stop this act. I understand they may feel that nothing would be achieved if they stopped now, but this is not the fact. At this stage, they should ponder this carefully: The really courageous and aspired ones know how to withdraw. They have actually achieved a lot. Do they want to corner their opponents, turn them hostile or even make the entire Hong Kong pay before they are satisfied? This is of no benefit to the whole of Hong Kong. Since they are always staying there at night, I hope that they can calm down and consider. They should not think that continuing to press forward would bring them more.

President, I so submit.

MR TONY TSE (in Cantonese): President, we have learnt since our childhood that the main duties and responsibilities of the Police are to uphold the rule of law, maintain law and order, safeguard and protect life and property. During all these years, Hong Kong has been recognized as one of the safest cities in the world and the contribution made by the Police to the remarkable progress achieved in our economic development cannot be left unrecognized. The police force is, without any exception, part and parcel of any countries and any places all over the world. However, it really hurts to see front-line police officers being regarded as "enemies" by some members of the public while they are performing their duties recently.

Since the outbreak of the illegal occupy action on the 28th of last month, it would be fair to say that police officers have over the last 18 days been subjected to immence pressure both physically and mentally. These are the feelings that members of the public may not understand but generally speaking, police officers have been executing their duties faithfully and conscientiously, giving play to their professionalism in the hope of making their best endeavours to maintain public order and safety in Hong Kong. It has come to my attention that although they have been subjected to unreasonable criticism, verbal abuses and personal attack from some members of the public, the majority of police officers in the front line have managed to exercise restraint and committed to serving Hong Kong people dutifully with a high degree of professionalism.

President, although I object to the illegal Occupy Central, which is detrimental to the overall development of Hong Kong, I respect the students' aspiration for democracy. Their concern for society and proactive participation in the discussions of public issues have my support. However, from another perspective, I worry about and feel sad for them. As everyone knows, students are the future of our society. However, they have now become the vanguard to challenge the rule of law in Hong Kong and obstruct the Police's action in law enforcement. In my opinion, there are various ways to express our aspirations and pursue our ideals. For any action taken, care should be exercised as far as possible to avoid causing any impediment to the public and thorough consideration should be made to determine if it is worth putting one's future as well as that of Hong Kong at stake. As a matter of fact, road occupiers, including the students, would be held liable for occupying public places and roads illegally and persistently on a large scale and causing traffic blockage and disruption to public order.

As for the Police's handling of the illegal occupy action this time, there are both voices of support and objection from the community. Among the counter views expressed, some members of the public have opined that the handling of the unlawful occupation of roads has been too lenient towards the road occupiers, and that the interests of those affected by the movement, especially those who live and work in the occupied areas, have been neglected. They hope the Police will launch a clearance operation as soon as possible so that their daily life will resume normal. In the face of different aspirations of different people, it is indeed not easy for the Police to strike a proper balance. Should the law be enforced? When and how should the law be enforced? How should the potential influence and conflicts be avoided as far as possible when the law is enforced? These should be addressed by the professional judgment and decision of the Police commanders concerned having regard to the circumstances prevailing at the scene. If anyone has any comments about the Police's handling of any specific case, follow-up action can definitely be sought under the existing mechanism.

Nevertheless, police officers are law enforcers maintaining public order and safety. Even though they have decided to refrain from taking law-enforcement action in a particular matter for the time being, it does not mean that the offenders concerned can act arbitrarily without concern for the interests of other people. In the case under discussion, road occupiers have caused traffic

blockage illegally on a number of major trunk roads. Have they ever considered that the blockage would deprive members of the public of the right to use the roads, and their acts have actually run contrary to the principles of democracy? I sincerely hope that the Police Force, especially the police officers performing front-line duties round the clock, will be treated by our community in an objective manner. If road occupiers participating in the assemblies are said to have sacrificed their time for Hong Kong, is it not that front-line police officers have also sweated for Hong Kong?

President, the prevalence of the rule of law and the existence of a safe social environment are the cornerstones underpinning Hong Kong's success, as well as the important core values of Hong Kong. Each and every one of us in Hong Kong has the responsibility to protect these core values and nothing should be done to damage or even destroy them. The Police and the people of Hong Kong should join efforts and work together to safeguard the rule of law in our society. Hong Kong is my home and it is also the home for each and every one of us. It is hoped that various sectors of the community, especially those participating in Occupy Central at present, can bear in mind the overall interest of Hong Kong and let public order resume normal as soon as possible so that we will be able to concentrate our efforts to improve the livelihood of people from all walks of life.

Finally, with regard to the video recordings made by some media organizations of the incident last night in which suspected use of inappropriate forces by some police officers against road occupiers can be seen, the Secretary for Security has already confirmed that follow-up action will be taken and the Police will investigate into the case. I am confident that the Police and the regulatory body concerned will, in accordance with the established procedures, act impartially and professionally to follow up and handle the case in a fair, just and reasonable manner. Meanwhile, it is hoped that the case will not intensify the discord between the people and the Police and both parties will, for the benefits of the society and the next generation, make efforts rationally and pragmatically with a view to strengthening and maintaining a good community relationship, and work together to safeguard public order and safety.

President, I so submit.

MR FREDERICK FUNG (in Cantonese): President, the adjournment motion moved by Mr Alan LEONG is about the handling of people's assemblies by the SAR Government and the Hong Kong Police since 26 September. For this purpose, let me recall what has happened earlier. The decision made by the Standing Committee of the National People's Congress on 31 August has shut the door on the issue of universal suffrage, making it basically impossible to implement universal suffrage for the election of the Legislative Council in 2016 and the selection of the Chief Executive in 2017. As the decision has left no breathing space for the people and neither is there any room for implementing "genuine universal suffrage with no screening", students of post-secondary institutions and secondary schools have launched the action of "Boycott Classes, Continue Learning".

In the small hours of 28 September, when it was already past 1 am, on the main stage in Tim Mei Avenue, which was already occupied by students of secondary schools, one of the initiators of the Occupy Central Trio Benny TAI announced the early start of Occupy Central, which was originally scheduled to start on 1 October but was finally advanced to begin then. When I learned about the decision from the television, I packed up in a hurry something which I might find useful during the Occupy Central movement and rushed to the scene by taxi from my home, since I have all along supported the Occupy Central Trio. I had been sitting on the ground beside the main stage with some others since we wanted to protect those on the front line. If anything happened, especially when arrest actions were taken by the Police, we were prepared to become the first batch of people arrested in the area surrounding the main stage. We were not doing this to confront the Police and were prepared to submit ourselves once arrest actions were taken. If we were arrested by the Police that day, everyone in the world would come to realize that the present proposal is not welcome by Hong Kong people since this is not genuine universal suffrage but a proposal with screening.

According to my observation, in the small hours from about 2 am to 3 am of the 28th, the number of people gathering at the scene started to decrease until it reached a low level of only 2 000 to 3 000. There were five exits at the scene then and the strategy of the Police was to deploy an anti-riot squad armed with protecting shield at the first exit at one time, drawing a flock of protesters who tried to stop the squad from staging a clearance operation to the exit. However, the squad was then suddenly switched to the second exit, followed by the third and then the fourth exit and this was actually a trick used unceasingly to threaten

protesters at the scene. Media coverage of what happened at the scene never stopped and people there were also conveying messages to their friends through electronic means and thus, after 3 am that morning, large groups of people were seen flocking to the scene from all directions. And what were they aiming at? As we all know, there is a large space outside the Central Government Offices on Tim Mei Avenue and from past experience, it has a maximum capacity of holding 30 000 or even 50 000 to 60 000 people standing or sitting on the ground. These people who were willing to come and join us that day shared the same thoughts with us: just let the Police arrest us all. We sat side by side with each other, trying to express our dissatisfaction in a peaceful and non-violent manner.

Nevertheless, it was the strategy of the Police at that moment to have those at the scene, amounting to 1 000 to 2 000 people or so, trapped on the spot, while keep on downsizing the occupied area without letting other people enter the area. We all know that after 3 am that morning, trainloads of people appeared from time to time at the exits of the Admiralty MTR Station. They were coming in the hope of protecting the students but their access to the scene was declined. How much space was there on the pavement outside the Admiralty Centre to hold these people? When tens of thousands of people were flocking to the same place, what could they do? If they did not step into the carriageway, where else could they turn to? By declining access to Tim Mei Avenue and the Central Government Offices, the Police actually forced the masses out onto the carriageway and pushed the people to Central and Causeway Bay. In the evening, Causeway Bay was also been occupied in addition to Admiralty.

President, at around 6 pm, the Police set off the first canister of tear gas. From midnight that day up to the very moment when the first canister of tear gas was set off, I had been staying at the scene for nearly 30-odd hours and it was noticed that different practices were adopted by the Police for setting off tear bombs in different locations. Prior to the using of tear bombs on Harcourt Road, warning had been issued by the Police but on Tim Mei Avenue, as I have mentioned when I put my question to the Secretary this morning, no warning had ever been issued. The Secretary is reluctant to investigate into the matter, though even he himself is not aware of the absence of such a warning. I reckon that the Police had assessed the situation and considered that such gear as face masks, cling film and umbrellas had made the crowds more than the pepper spray could manage and therefore tear bombs were used instead.

Everyone was shocked by the setting off of the first canister of tear gas and I was deeply worried, fearing that the Government would resort to higher levels of violence to deal with the crowds. I was very much worried about the situation. Subsequently, banging noises were heard every five to six minutes and these were noises of the setting off of tear bombs. After a few canisters of tear gas were set off, I thought people at the scene would leave but 10-odd minutes later, they were heard gathering again on the carriageway of Harcourt Road and there was an uninterrupted flow of people coming to the place. It turned out that the masses could no longer be intimidated by tear bombs, nor would they be driven away by the setting off of tear bombs. Furthermore, the more tear bombs were set off, the greater number of people gathered. Why was this so? Were the masses organized groups of protesters? Were they mobilized by political parties to come to the scene? Were such people in collusion with foreign states to join the crowds? Actually, they were all people joining the movement on an voluntary basis.

Several people who came to the scene that day were interviewed by the media in news coverage of the incident and when asked about the reasons for showing up though they knew that tear bombs had already been used, an elderly person replied that the young people of Hong Kong were masters of our future as well as successors of the community. In the opinion of the interviewee, we needed them and if the Police really wanted to set off any tear bombs or fire any bullets, he would jump in front of the bullets for the young people, for he would rather shot by these bullets than sacrifice them. It can be concluded that the masses were flocking to the scene with the aim of protecting the students and they were actually driven by the rounds of tear bombs set off by the Police. In order to protect these students, they were not scared. When people were no longer afraid of the use of such weapons, what was the point of keep on using them by the Police to threaten the public?

President, the decision to use tear bombs has fermented a considerable mass support and the use of tear bombs has brought more people to Admiralty. In the face of tear bombs, people were even more determined that they should not leave since they wanted to protect the students. What is the point of intimidating people fearless of death with actions implying such a possibility?

President, a few cases which I find very strange happened in the last few days and if the details of such cases are presented systematically, a similar chronological order of events can be arranged for all cases that occurred in Mong

Kok or Admiralty. First of all, there would be members of the public, District Councils members and representatives from various organizations coming to the demonstration areas, urging protesters there to leave. They would explain that their daily life have been affected by the movement and ask for the co-operation of the protesters in a friendly manner. "Big guys" with a strong body, some of them even equipped with face masks recently, would then appear at the scene afterwards to charge at the barricades put up by the protesters, followed by the Police's action to clear the obstacles. The same thing happened in both Mong Kok and Admiralty and we cannot help associating the cases with the authorities and wondering if the Administration is trying to handle the matter in such a systematic manner.

The incident happened last night is even more terrifying. A protester arrested by the Police and with both hands tied up was moved to a dark corner where he was subjected to punching and kicking. What have been done would not be left unnoticed and we should never take for granted that media coverage would always turn out the way we prefer. This is impossible.

President, Hong Kong people are worth praising in the incident. Public processions have been held in which hundreds of thousands of people took to the streets, public meetings of the same scale have been triggered by the national education crisis and the incident of free television programme service licenses has also given rise to public processions and meetings with hundreds of thousands of participants but these activities have never resulted in a fight. Although there have been some slightly unpleasant occurrences in the process, these are just minor problems and the movement is so far peaceful and non-violent.

On the contrary, in many other places in the world, if similar things happen and draw so many people to public assemblies and processions, the masses will have either sticks or knives and guns in their hands and shopping malls nearby will even be plundered, but such chaotic situations and crimes have never emerged in Hong Kong. The governments of foreign countries have to use tear bombs to keep the chaotic situations under control and the same tactics have also been used by the Police, but against people holding umbrellas, wearing face masks and trying to protect themselves with cling film. How can such a use of force be acceptable to us? Tear bombs are weapons to be used against thugs but are these people thugs?

As early as 10 days ago, people suspected to have triad background tried to pull down tents mounted in Mong Kok but similarly, the more rampant these activities were, the greater the number of people gathered at the scene. Such incidents can only reveal the pure intention of the masses to fight for a democratic political system, a system under which "genuine universal suffrage with no screening" can be implemented. With "Determining our Future" as their slogan, they want to have the objective achieved.

Apart from the students and members of the public participating in the movement, owners and attendants of shops affected or people affected as a result of traffic disruption are also praiseworthy. They have to spend more time stuck in traffic, shop businesses are declining and these are of course sources of dissatisfaction but their objections are relatively moderate and the complaints have never led to any conflicts. The people of this city are of a high quality and this is one point which I hope the Central Authority will appreciate. I believe that if similar incidents occur in the Mainland, things will definitely not turn out as the way they are in Hong Kong.

In the past occasions when members of the public were asked to sign their names in support of views submitted to the Government, they were regarded as supporters mobilized by such political parties as the Hong Kong Association for Democracy and People's Livelihood, the Democratic Party, the Civic Party, the Labour Party. However, in the present case, when the masses are not mobilized by any of the abovementioned political parties but choose to come forward to express their wishes on a voluntary basis, arguments are raised by people such as Dr Priscilla LEUNG to describe the absence of any leaders in the current movement as horrifying. While actions with leaders are considered attempts to no avail on the one hand, those without leaders are described as horrifying on the other and I wonder what her actual preference is.

Political issues should be resolved by political means and for this, President, there are a few suggestions I would like to put forward. The Central Authority has accepted all recommendations contained in the report submitted by LEUNG Chun-ying but such recommendations have actually fallen short of the expectations of the pro-democracy camp, moderate members of the pro-establishment camp as well as the academics and the report has failed to give an account of the options which Hong Kong people prefer. In my opinion, views should be collected by the Government for the preparation and submission of a supplementary report.

Secondly, the Chief Secretary for Administration Carrie LAM should meet and negotiate with the students as soon as possible with a view to tackling the present problem. Thirdly, I totally agree that Carrie LAM should take the lead to set up a committee and its membership should include representatives of the Central Authority, the SAR Government, various political parties, civil bodies, students' organizations and the academic field so that they would work together to identify feasible options for implementing "genuine universal suffrage with no screening" for the election of the Legislative Council and the selection of the Chief Executive. Finally, it is also hoped that members of the public would be prepared to change and transform themselves into a united force to persistently fight for democracy.

Thank you, President.

DR KWOK KA-KI (in Cantonese): President, today is a day of great regret. As our debate is in progress here, nearly 1 000 social workers are sitting on the carriageway of Arsenal Street nearby in Wan Chai. They all want to report to the Police because they witnessed what happened in Tamar Park earlier today ― so did all Hong Kong people ― and they simply cannot stand the fact that in present-day Hong Kong, a society which boasts of its cleanliness of government and impartial laws, the Police are no different from triad societies.

President, yesterday in Tamar Park, I saw policemen charging like mad at people. Many of these people were in fact totally defenceless, and they were not the ones who took part in the charging actions. Some people went there for the simple reason of showing support, while others were mere onlookers, and none of them had any intention to take part in any charging action. The policemen there, however, did not bother to find out what was going on and simply showered their pepper spray, not only on ordinary members of the public but also on journalists, as I personally witnessed. What is more, some policemen even tore off the goggles of demonstrators, pepper-sprayed them forthwith, and started chasing them and beating them up hardly a minute later. Who are these people anyway? Robbers?

"Political issues resolved by political means". The Police is not a tool of LEUNG Chun-ying, nor is there a rebellion like those in the Mainland which necessitates the use of the Police as a tool of suppression. What happened in Tamar Park was not a rebellion. Why did all those people take to the streets?

The Basic Law provides that the Chief Executive shall be selected by universal suffrage in 2017, and all Legislative Council Members shall be returned by universal suffrage in 2020. This is an undertaking, a solemn undertaking enshrined in both the Sino-British Joint Declaration and the Basic Law. MA Ying-jeou is able to express this idea very clearly: "There is only one way to solve this problem ― strict adherence to the Basic Law." We can fully understand what he means.

The very person who should face the demonstrators in Civic Square is LEUNG Chun-ying, but he has disappeared like a tortoise hidden in its shell for more than 10 days, releasing nothing but only video statements in the meantime. President, only a few types of people release video statements. People who want to flee will do so. Dying state leaders will do so, because they can no longer speak. Or, terrorists like those belonging to Al-Qaeda will also do so because they need to go into hiding and avoid discovery. If the Chief Executive has really been telling the truth, if he is really giving the people genuine universal suffrage, why should he be so fearful of going to Umbrella Plaza? He has delegated the task to Carrie LAM, but she is shrewd enough to describe herself as "not in the know". She has also advanced a number of hardly convincing reasons, such as demonstrators' escalation of actions and the non-co-operation of some Legislative Council Members. All these are mere excuses.

Everything has a cause. The students' seizure of Civic Square on 27 September was triggered by the Government's closure of the square without any prior indication and consultation. Had the Government not done so, would students still need to do so? Had the Government not fired 87 tear gas canisters, had it not waved the "idiotic" warning flag which threatened that the Police would open fire, there would not have been 100 000 people coming out in protest.

On 3 October, we witnessed the "seamless co-operation" of the Police and triad societies. On 3 October and this Monday, the Police announced its clearance plan in the morning, and by "mere coincidence", triad gangsters were all there in the afternoon. The Police and triad gangsters were working together! God! What kind of policemen are they?

The Police is one of the disciplined services. I believe that without their supervisors' tacit approval, the policemen concerned would never have dared to administer any extra-judicial punishment like the kind of battery we saw yesterday. I believe that their supervisors must have told them very clearly beforehand, "Don't be afraid. You may go ahead. Just beat them up whenever

possible!" We are ashamed of them, because we all used to think that only the state security, public security and urban management officers in the Mainland would do something like this; the policemen in Hong Kong would never do so.

Hong Kong today is no longer what it used to be. Government officials are all telling brazen lies. The Chief Executive has not answered any questions about his having received tens of million dollars; the Chief Secretary for Administration has also disappointed the people; like LEUNG Chun-ying, the Commissioner of Police has gone into hiding for more than 10 days, afraid to show up before the masses. What kind of government do we have? What kind of policemen are they? What kind of Chief Executive is LEUNG Chun-ying?

They have failed to admit the truth. The "door-slamming" package imposed by the Standing Committee of the National People's Congress does not give Hong Kong people genuine universal suffrage in accordance with the Basic Law. Instead, it only gives us a kind of so-called universal suffrage marked by screening. But they still have the face to tell us unanimously and hypocritically that the package is superb, can give us "one person, one vote", and "should be pocketed first". But what kind of vote will be put into the pockets of the public? Well, after screening, only people like LEUNG Chun-ying and Rita FAN will be left as options for the people. This kind of universal suffrage is not what the people want.

Some wonder, "How are we going to bring an end to the present situation?" Suppression is definitely out of the question. Should the Government refuse to address this problem squarely and work out a package of genuine universal suffrage approved by the people, even if the Government could disperse them today, it would not be able to disperse them forever. The recent events in Hong Kong are by now deeply ingrained in young people's minds. They will never forget the extra-judicial punishment administered by the Police. They will never forget the collusion of the Police and triad societies. They will never forget the degeneration of Hong Kong's police and community into the state of imposing extra-judicial punishment. Things that we think will only appear in movies about triad societies are now part of the reality. Hong Kong has indeed undergone very drastic changes.

News workers … President, something has actually happened today, and I should express my gratitude to a number of front-line reporters in the news department of the Television Broadcast Limited (TVB). We used to say "TVB news is wishy-washy". But today, a number of front-line reporters in the news

department of TVB have done something that all news workers should do. Twenty-seven front-line reporters in the TVB news department have stood forward in an attempt to uphold the truth, expressing their disapproval of and condemning the practice of their management.

The behaviour of the highest echelon of the Police is shameful. Have they ever stood forward to say anything? The seven policemen involved in the battery are in fact suspected of committing a criminal offence, but have the Police taken any enforcement actions against those policemen? No. The "field commander" even said flippantly, "Four police officers were hurt." Ken TSANG aside, seven other persons have been hospitalized for injury assessment. Many more people may have been hurt, only that we just do not know. In the past 10 days or so, many more people might have been hurt in Mong Kok and other places, only that they have eluded our attention.

As we chant "Shame on Policemen", our hearts actually ache. If the rule of law were really upheld in our society, if the Government were really for the people, and if policemen were really the exterminators of criminals and protectors of good citizens, we would not shout such a slogan. Sadly, the present situation is so deplorable.

President, I really do not know what to say about these government officials and this very government. I think the Government, including LEUNG Chun-ying, should offer their responses. But Members all know that he will once again hide himself away from the Chief Executive's Question and Answer Session tomorrow, just like a tortoise hidden in its shell.

President, this is a moment of deep regret. The Government and the Chief Executive are past any redemption.

I so submit. Thank you, President.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at 7.54 pm.

Annex I

民建聯 DAB

(只備中文本)
(in Chinese only)

呈
香港特別行政區
立法會主席及全體議員

呈請書
(根據議事規則第 20 條提交)

本港多區自今年 9 月 28 日發生大規模違法佔據道路事件，嚴重影響市民的日常生活及生計，並對香港整體利益造成嚴重損害。事件令多條主要幹道交通癱瘓，運輸業生意大受打擊，部分商店及銀行需要關閉，食肆及報紙檔亦因無法得到貨品補給或顧客減少而接近停業。事件更令多國對香港發出旅遊警示，引發退團潮，令本港國際聲譽嚴重受損，經濟損失難以估計。另一方面，事件亦引發市民間的衝突，警方因秉公執法而受到無理指控，年輕人的學業及前途受到影響等，導致社會嚴重分化，人心撕裂，家庭不和。

我們懇請各位議員支持本呈請書，以對自今年 9 月 28 日在多區發生的大規模違法佔據道路事件進行全面調查，包括其組織策劃、資金來源、引起的公共秩序及安全問題、對本港各方面造成的影響、政府的處理手法，及其他一切相關事宜，並根據調查結果，向政府及社會各方提出建議。

呈請人 譚耀宗 葉國謙 李慧琼 陳鑑林 黃定光 陳克勤
陳恒鑌 何俊賢 鍾樹根 蔣麗芸 梁志祥 葛珮帆

2014 年 10 月 8 日

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Annex II

呈
香港特別行政區
立法會主席及全體議員

(只備中文本)
(in Chinese only)

呈請書
(根據議事規則第 20 條提交)

全國人大常委會於 2014 年 8 月 31 日就 2017 年香港特首選舉定下極其狹窄的框架，扼殺真普選，為選舉設下不合理限制。而梁振英政府在政改一役表現失職，香港市民在迫不得已的情況下於 9 月 28 日進行佔領中環運動，以和平示威的方式要求真普選的訴求。

警方於 9 月 28 日及 29 日公眾人士集會期間的處理手法，引起市民極大批評。於新聞片段顯示，在使用武器時警方並未有清楚展示警告的標語，一支警告旗兩面使用，一面是警告將會開槍，一面警告將發催淚彈，讓示威人士無所適從。資料顯示，有多名防暴警察配備來福槍，令示威人士擔心其使用手法，引起恐慌。從另一段新聞片段，警方發放催淚彈後，在示威人士未有激烈反抗下使用警棍驅逐，令公眾及傳媒均認為警方濫用武力。

其後，警方於記者招待會中，表示在金鐘和中環清場時共使用 87 枚催淚彈驅散示威者，外國有催淚彈專家擔心，在香港人煙稠密地方用多發催淚彈會對人體健康有不良影響，向香港出售催淚彈的英國公司亦表示會檢討出售催淚彈政策。警方短時間內密集式使用催淚彈，被公眾質疑濫用武力，故此立法會有必要跟進事件，追究相關政府官員的責任，並提供是次處理集會遊行提出最終指令的最高負責人。

10 月 3 日，有參與佔領中環運動的市民在旺角被施襲者毆打致流血，人身安全受到嚴重威脅，有英國廣播公司記者得到警方消息，謂旺角事件明顯牽涉黑社會；更有傳媒報道指在場警員放走施襲者。警方對不同立場的團體所使用的執法手段，與 9 月 28 日時對示威行動的處理，有明顯的偏頗，令人質疑警隊的中立性。有報導旺角的衝突事件中，黑社會背景的滋事分子，背後是由中華人民共和國國家安全部負責拉攏協調，意圖抹黑及阻嚇和平運動，令人懷疑中聯辦介入是次運動的可能性。

因此，我們懇請各位議員支持此呈請書，以提高透明度，讓公眾了解警方在使用各種集會示威遊行的裝備及使用理據。警方於是次處理遊行集會期間有明顯的失責及偏頗行為，讓公眾有警方使用過度武力和選擇性執法的感覺，更令人懷疑是次和平示威行動，中聯辦有介入的可能性。我們希望透過呈請書的調查結果，就日後警方處理公眾集會及公眾

遊行的管治事宜，作出具體建議，確保公眾有遊行集會的自由權利，防止警方濫用暴力和維持警方的中立性。

呈請人：單仲偕 郭家麒

2014 年 10 月 9 日